

**INFORMATION FOR  
RELIGIOUSLY EXEMPT  
CHILD DAY CENTERS**

**August 2004**

IT IS RECOMMENDED THAT YOU PLACE THIS PACKET IN A THREE-RING  
BINDER AS A REFERENCE. UPDATES WILL BE MAILED AS NEEDED.

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## INTRODUCTION

Section 63.2-1716 of the *Code of Virginia* (Code) exempts from licensure child day centers operated or conducted under the auspices of a religious institution. If a child day center operated by or conducted under the auspices of a religious institution chooses not to be licensed, certain documentation must be filed annually with the Virginia Department of Social Services. In addition, the Code outlines the other requirements that exempt child day centers must meet.

The information that follows serves to explain the documentation and other requirements set out in the exemption law.

**Section I - REQUIRED DOCUMENTATION** provides a detailed explanation of each item of documentation required to be submitted to the field licensing office serving your area. A listing of field licensing offices is included in Section VI. A checklist is included at the end of this section to assist you in monitoring completed requirements.

**Section II - CODE COMPLIANCE STATEMENTS** provides a detailed explanation of the "Statement of Code Compliance," one of the forms certifying information that must be submitted to the Department on an annual basis.

**Section III - BACKGROUND CHECKS** explains the requirements for background checks for exempt child day centers. Section 63.2-1724 of the Code outlines the requirements for unlicensed centers.

**Section IV - ON-SITE VISITS AND INSPECTIONS** provides general information regarding visits and inspections by staff of the Department of Social Services, Division of Licensing Programs. The Code authorizes visits and inspections by staff of the Virginia Department of Social Services to exempt child day centers under certain circumstances.

**Section V - FORMS** includes model forms that may be used to file the required documentation for religious exemption. Although a few extra copies of the forms will be provided upon request, you are primarily responsible for making copies as needed.

**Section VI - CODES, REFERENCES AND RESOURCES** contains related code citations, reference, resource and technical assistance information that may be of assistance to you.

Please read this packet of information carefully. Paying close attention to the details contained in the packet will prevent delays in processing your exemption documentation.

## **SECTION I**

### **REQUIRED DOCUMENTATION**

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## REQUIRED DOCUMENTATION

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### STATEMENT OF INTENT

A statement must be prepared **ANNUALLY** by the sponsoring religious institution conveying its intent to begin or continue operation of a child day center. You may copy, complete and return the Statement of Intent form included in Section V. If this form is not used, the statement may simply read as follows:

The (sponsoring religious institution) intends to operate the  
(name of child day center) during 20\_ /20 for children  
ages \_\_\_\_ through \_\_\_\_\_. The maximum number of children  
that may be served is \_\_\_\_\_.

An administrator of the religious institution such as the pastor, priest, rabbi, or an officer of the board of directors of the sponsoring religious institution **MUST** sign this statement.

### CERTIFICATION OF TAX EXEMPT STATUS

The tax exempt status of the sponsoring religious institution must be certified by submitting either: 1) a statement from the local tax commissioner's or real estate assessor's office that the real property owned and exclusively occupied by the religious institution is exempt from local taxation or 2) a statement from the Internal Revenue Service that the religious institution has tax exempt status as a nonprofit religious institution in accordance with § 501 (c) of the Internal Revenue Code of 1954, as amended. The first statement is usually easier to obtain, but is only available to the religious institutions that own the property in which the center is located. The second statement may be requested from the IRS office nearest you.

Certification of tax exempt status is usually required only at the time of initial filing. Your tax exempt status **MUST** be re-certified if the sponsoring religious institution relocates or there is a change of ownership.

NOTE: The Code requires tax exempt status as a nonprofit religious institution; not just the 501(c)(3) status.

### LOCAL HEALTH REPORT - REPORT OF SANITARY INSPECTION

The child day center must be inspected and approved **ANNUALLY** by an official from your local health department. The inspection must be current within 90 days of the date you submit your exemption documentation initially and within the prior 180 days of the date of submission thereafter. Call your local health department to request an inspection, and provide the inspecting health official with a "Report of Environmental Health Inspection" form. (A copy of the form is included in this booklet, however many health departments require an

original. Request the form from the field licensing office if necessary.) You should request receipt of a completed report from the inspecting health official and submit a copy of the report to the licensing office. Although the inspecting official may send the report directly to the licensing office, it is to your advantage to be aware of what has been submitted.

### **LOCAL HEALTH REPORT - FOOD ESTABLISHMENT INSPECTION REPORT**

If your facility provides food services to a population of thirteen (13) or more children, you must also submit a completed "Foodservice Establishment Inspection Report". This form will be provided by the health inspector. A report of the official's inspection and approval must be current within 90 days of the date you submit your exemption documentation initially and within the prior 180 days of the date of submission thereafter.

If your hours of operation are such that food services are not provided, you will want to discuss this with the health inspector. A Foodservice Establishment Inspection may not be necessary.

### **LOCAL FIRE REPORT**

The child day center must be inspected and approved ANNUALLY by an inspector from an authorized Fire Prevention Bureau or by the Office of the State Fire Marshal. You may contact your regional office of the State Fire Marshal to determine who has jurisdiction to perform the annual inspection. You may provide the inspector with a Fire Inspection Report Form. (A copy of the form is included in this booklet, however many fire departments require an original. Contact the field licensing office for the actual form, if necessary.) The inspection must be current within 90 days of the date you submit your initial exemption documentation and within the prior 180 days of the date of submission thereafter.

### **BUILDING INSPECTOR'S REPORT (CERTIFICATE OF OCCUPANCY) OR STATE FIRE MARSHAL'S REPORT**

The building in which your child day center is located is subject to building regulations as established by the Commonwealth of Virginia. The building regulation applicable to your center is determined by the date your program was established. Programs established prior to September 1, 1973 are regulated under the Virginia Public Building Safety Regulations. Programs established after September 1, 1973 are regulated under the Virginia Uniform Statewide Building Code.

Call your local building official for assistance in determining the regulations that apply to your building. If you determine that the local building official does not have jurisdiction over your building, contact the regional office of the State Fire Marshal representing your locality.

Your local building official (or the State Fire Marshal) must be informed of the age range of the children you intend to enroll in your center. Special building requirements apply to

children ages 2 ½ to 5 years, and additional requirements apply to children under the age of 2 ½ years.

Included in Section V is a "Building Inspection Request form. If you are unable to locate the Certificate of Occupancy for your building, or if your building was built prior to September 1, 1973, and no Certificate of Occupancy was issued, you should contact the regional licensing office and ask for an original "Building Inspection Request" form and ask the local building official or the State Fire Marshal to complete this form.

A copy of your Certificate of Occupancy is one of the items of required documentation that must be submitted for religious exemption. This document is only required to be submitted for initial exemption, unless changes occur which require modification.

## **VERIFICATION OF REQUIRED STAFF/CHILD RATIOS**

The exemption law requires that the following staff/child ratios be maintained:

- One staff member to four children from zero to twenty-four months;
- One staff member to ten children ages twenty-four months to six years; and
- One staff member to twenty-five children ages six years and older.

Please note that additional staff are required when the number of children exceeds the required ratio by one or more. For example:

Birth to 24 months:	1 staff required for 1-4 children
	2 staff required for 5-8 children
	3 staff required for 9-12 children
2 to 6 years:	1 staff required for 1-10 children
	2 staff required for 11-20 children
	3 staff required for 21-30 children
6 years of age and older	1 staff required for 1-25 children
	2 staff required for 26-50 children
	3 staff required for 51-75 children

Other requirements:

- Staff are counted in the staff-to-children ratio only when they are directly supervising children;



- In each grouping of children, at least one adult staff member must be regularly present;
- Staff members must be at least 16 years of age;
- Staff members under 18 years of age must be under the supervision of an adult staff member, and
- Adult staff members may supervise no more than 2 staff members under 18 years of age at any one time.

The "Staff/Child Ratio Information Sheet" may be copied, completed and submitted on an annual basis. The use of this form is recommended, but not mandatory. You may use your own format to submit this information.

Your enrollment and staffing must be documented accurately. The instructions on the "Staff/Child Ratio Information Sheet" and the sample sheet accompanying it will provide guidance to properly verify your maintenance of the required staff/child ratios.

It is in your best interest to complete your exemption request promptly, since significant staff turnover and enrollment changes that occur during this process will require revision of the staff/child ratio information already submitted. If your center has not yet begun operation, you may provide estimates of your expected enrollment totals and staffing assignments. In the event that actual enrollment and staffing information differs significantly from your projections, the ACTUAL staff/child ratio information should be submitted.

## **STAFF HEALTH REPORTS**

Upon beginning work and ANNUALLY thereafter, every staff person who supervises the children enrolled in your center must be certified by a practicing physician to be "free from any disability which would prevent him/her from caring for children." The "Staff Health Report - Physician's Statement," may be used to document the physician's certification. A copy of this form may be given to each employee to be certified by his/her examining physician and returned to you for your files.

Use of this form is recommended, but not mandatory. If another form is used, it must contain the statement quoted above. Please note that the Code requires that each Staff Health Report be signed by a practicing physician rather than any other type of medical personnel.

## **STATEMENT OF CODE COMPLIANCE**

Section 63.2-1716, subsection A 5 of the Code, outlines the additional requirements exempt centers must comply with including background checks; reporting suspected child abuse and neglect; motor vehicle regulations; and the use of child restraint devices. Subsection A 6 requires the center to disclose certain information to the parents or guardians of the children

enrolled in the center in a written statement and to make the information available to the general public. In addition subsection B, requires the establishment and implementation of certain procedures. The procedures and disclosure requirements are detailed in Section II and a copy of Section 63.2-1716 of the Code is provided in Section VI.

The center must certify on an ANNUAL basis that it is in compliance with these sections of the Code. The "Statement of Code Compliance" form may be used for this purpose. Use of this form is not mandatory.

# **REQUIRED DOCUMENTATION FOR RELIGIOUS EXEMPTION CHECKLIST**

**DATE SUBMITTED:**

- \_\_\_\_\_ 1. STATEMENT OF INTENT
- \_\_\_\_\_ 2. CERTIFICATION OF TAX EXEMPT STATUS\*
- \_\_\_\_\_ 3. LOCAL HEALTH REPORT OF SANITARY INSPECTIONS
- \_\_\_\_\_ 4. LOCAL HEALTH -FOOD ESTABLISHMENT INSPECTION  
REPORT\*\*
- \_\_\_\_\_ 5. LOCAL FIRE REPORT
- \_\_\_\_\_ 6. BUILDING INSPECTOR'S REPORT (CERTIFICATE OF  
OCCUPANCY) OR STATE FIRE MARSHAL'S REPORT\*
- \_\_\_\_\_ 7. VERIFICATION OF REQUIRED STAFF/CHILD RATIOS
- \_\_\_\_\_ 8. STAFF HEALTH REPORTS
- \_\_\_\_\_ 9. STATEMENT OF CODE COMPLIANCE

\* Only required at the time of initial exemption unless changes occur which require modification.

\*\*As appropriate (see Local Health Report - Food Establishment Inspection Report for additional information.)

## **SECTION II**

### **CODE COMPLIANCE STATEMENTS**

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## **CODE COMPLIANCE STATEMENTS**

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### **WRITTEN DISCLOSURE TO PARENTS OR GUARDIANS THAT THE CENTER IS EXEMPT FROM LICENSURE**

The center must disclose, in writing, to the parents or guardians of the children enrolled in the center the fact that it is exempt from licensure. A variety of methods may be used including, but not limited to, inclusion of this information in the center handbook, notification of parents by letter, or posting a statement in an area of the facility conspicuous to the public.

### **WRITTEN NOTICE TO PARENTS OR GUARDIANS OF STAFF QUALIFICATIONS**

Describe the job qualifications that all of your staff must have, such as certain academic training, work experience, or personal attributes, before they will be hired. The qualifications are defined solely by the religious institution.

### **WRITTEN STATEMENT PROVIDED TO PARENTS OR GUARDIANS AND MADE AVAILABLE TO THE GENERAL PUBLIC REGARDING PHYSICAL FACILITIES**

Provide a brief written description of your center's physical facilities, noting such features as the size of the building used, the number of rooms used by the center, the center's location, the condition of the building used, kitchen availability, play equipment, or any other significant features of your facilities.

### **WRITTEN STATEMENT PROVIDED TO PARENTS OR GUARDIANS AND MADE AVAILABLE TO THE GENERAL PUBLIC REGARDING ENROLLMENT CAPACITY**

State the maximum number of children the center will enroll at any one time. Your local building official or other official may limit this number.

### **WRITTEN STATEMENT PROVIDED TO PARENTS OR GUARDIANS AND MADE AVAILABLE TO THE GENERAL PUBLIC REGARDING FOOD SERVICE**

State whether or not you intend to offer food services and provide a brief description of the services offered (e.g., snacks, lunch, hot or cold foods).

### **WRITTEN STATEMENT PROVIDED TO PARENTS OR GUARDIANS AND MADE AVAILABLE TO THE GENERAL PUBLIC REGARDING HEALTH REQUIREMENTS FOR STAFF**

You may simply state the exemption laws requirement that your staff be certified annually by a practicing physician to be free from any disability which would prevent them from caring for children. You should also describe any other health requirements for child care staff.

## **WRITTEN STATEMENT PROVIDED TO PARENTS OR GUARDIANS AND MADE AVAILABLE TO THE GENERAL PUBLIC REGARDING POSSESSION OF PUBLIC LIABILITY INSURANCE**

You must disclose to the parents or guardians of the children enrolled in the center and the general public whether or not your center is covered by public liability insurance, which provides coverage in the event that someone brings suit against the religious institution for personal or bodily harm suffered during the operation of the center as a result of negligence. This type of insurance should not be confused with accidental injury insurance, which provides medical benefits to the injured regardless of whether a suit is filed or the injury was a result of the center's negligence. Most liability policies provide a minimum coverage of \$300,000.

A sample Public Disclosure Form is included in Section V.

## **ESTABLISHMENT AND IMPLEMENTATION OF HAND WASHING PROCEDURES**

The center must establish and implement procedures for hand washing by staff and children before eating and after toileting and diapering.

Hand washing is the most important means of interrupting the transmission of infection among staff and children. While the law requires hand washing before eating and after toileting and diapering, health professionals also recommend hand washing upon arrival at the center by staff and children, upon return from outdoor play and when the hands have been in contact with any body secretion (e.g., nasal, oral secretions). Hand washing should also occur before preparing and serving food and after handling unclean surfaces.

## **ESTABLISHMENT AND IMPLEMENTATION OF PROCEDURES FOR APPROPRIATE SUPERVISION OF CHILDREN**

The center must establish and implement procedures for appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure the safety of children.

"Appropriate supervision" means compliance with the staff/child ratios, staffing and supervision requirements outlined in the Code and development and implementation of procedures to ensure the safety of children. Supervision includes training and oversight of staff to assure protection of the children and that the center's procedures for oversight and supervision are carried out

## **ESTABLISHMENT AND IMPLEMENTATION OF PROCEDURES FOR A DAILY SIMPLE HEALTH SCREENING AND EXCLUSION OF SICK CHILDREN**

The center must establish and implement procedures for a daily simple health screening and exclusion of sick children by a person trained to perform such screenings.

"Daily health screening" is a health observation of children designed to alert staff to the signs and symptoms of an illness by promptly identifying changes in a child's pattern of behavior or physical appearance. Appropriate action may then be taken to protect the ill child from avoidable health risks and to prevent exposure of well children to an illness that might be contagious.

The daily observation may be completed by one or all of the following examples: looking at and touching the child's hands, cheeks; running the fingers behind the ears and down the neck glands for any sign of fever or swelling; looking at the eyes; checking for signs of a runny nose or coughing; and by noting any unexplained bruises or skin rashes.

The observation is done by a staff member who has obtained instruction in performing the daily health observation of children from a health care professional.

Other benefits of the daily health observation include identification of other conditions, such as vision, hearing, speech/language, or dental problems that may indicate the need for parents to consult their family physician for possible treatment or referral to a specialist. In addition, problems that affect the emotional well being of a child may also be detected by noting changes in behavior or appearance such as listlessness, lack of interest, temper tantrums or a lasting noticeable change in personality.

#### **THE CENTER SHALL ESTABLISH AND IMPLEMENT PROCEDURES ENSURING A PERSON TRAINED AND CERTIFIED IN FIRST AID IS PRESENT AT THE CENTER WHENEVER CHILDREN ARE PRESENT**

The center must establish and implement procedures to ensure that a person trained and certified in first aid is present at the center whenever children are present.

A person may receive training by attending a first aid course. The American Red Cross and the National Safety Council offer certification for persons who take and pass their first aid courses.

#### **CENTER IS IN COMPLIANCE WITH THE IMMUNIZATION PROVISIONS OF SECTION 32.1-46 OF THE CODE**

The center must establish and implement procedures to ensure that all children are in compliance with the provisions of Section 32.1-46 of the Code regarding immunization of children against diseases.

Section 32.1-46 of the Code lists the required vaccines, the doses of each and the ages at which children should receive them. A chart outlining the childhood immunization schedule approved by the American Academy of Pediatrics is included in Section VI.

While not required by law for centers operated under the auspices of religious institutions; the Virginia Department of Health recommends the use of the MCH-213E form (revised

10/03) for documenting immunizations received. The forms may be obtained from the local health department in the area where your center is located.

### **ALL AREAS OF THE PREMISES ACCESSIBLE TO CHILDREN ARE FREE OF OBVIOUS INJURY HAZARDS**

The center must establish and implement procedures to ensure that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment.

Cushioning material is a resilient surface designed to help absorb the shock if a child falls off of equipment. There are several types of surfacing materials that would offer cushioning: loose surfacing materials like bark, wood chips, pine bark nuggets or mulch, pea gravel and compact surfacing like rubber mats or synthetic turf. Some have more advantages than others, but all will need continual maintenance to ensure the optimum level of protection for the children.

Included in Section VI is information on various types of resilient surfacing materials, taken from the Handbook for Public Playground Safety prepared by the U.S. Consumer Product Safety Commission. The chart indicates the maximum height from which a fall could occur and not result in a life-threatening injury to a child, based on whether or not the resilient surfacing is compressed or uncompressed, and the depth of the material. The center must also ensure that areas inside the center are free of obvious safety hazards.

### **ALL STAFF ABLE TO RECOGNIZE THE SIGNS OF CHILD ABUSE AND NEGLECT**

Section 63.2-100 of the Code defines an "abused or neglected child" as "any child less than eighteen years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates substantial risk of death, disfigurement, or impairment of bodily or mental functions;
2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered an abused or neglected child;
3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law; or



5. Who is without parental care or guardianship caused by the unreasonable absence or mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing "in loco parentis."

The center shall establish and implement procedures to ensure that all staff members are able to recognize the signs of child abuse and neglect. Contact the child protective services unit in the local department of social services nearest you for additional information and training.

#### **COMPLIANCE WITH SECTION 63.2-1509 RELATING TO REPORTING OF SUSPECTED CASES OF CHILD ABUSE AND NEGLECT**

Section 63.2-1509 of the Code states that " .... any teacher or other person employed in a public or private school, kindergarten or nursery school, any person providing full or part-time child care for pay on a regularly planned basis, . . . any person associated with or employed by any private organization responsible for the care, custody or control of children" who has reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline. "Any person required to file a report . . . who fails to do so within seventy-two hours of his first suspicion of child abuse or neglect shall be fined . . ."

Contact the child protective services unit of the local department of social services for additional information and training.

#### **COMPLIANCE WITH CHAPTER 3, SECTION 46.2-300 ET SEQ. OF TITLE 46.2 REGARDING A VALID VIRGINIA DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE**

Section 46.2-300, and the Code sections that follow it, require a valid driver's license when operating any motor vehicle on any highway in the Commonwealth. A commercial driver's license is required to operate a vehicle that transports 16 or more persons.

#### **COMPLIANCE WITH ARTICLE 21, SECTION 46.2-1157 ET SEQ. OF CHAPTER 10 OF TITLE 46.2 REGARDING VEHICLE INSPECTIONS**

This section of the Code requires that all vehicles be inspected every 12 months and display a current inspection sticker.

#### **COMPLIANCE WITH SECTION 46.2-705 REGARDING INSURANCE FOR VEHICLES USED TO TRANSPORT CHILDREN**

Section 46.2-705 of the Code states the following:

"Insured motor vehicle" means a motor vehicle as to which there is bodily injury liability insurance and property damage liability insurance, both in the amounts specified in Section

462-472, issued by an insurance carrier authorized to do business in the Commonwealth, or as to which a bond has been given or cash or securities delivered in lieu of the insurance; or as to which the owner has qualified as a self-insurer in accordance with the provisions of Section 462-368.

Section 462-472 reads as follows:

" Every motor vehicle owner's policy shall:

1. Designate by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted.
2. Insure as insured the person named and any other person using or responsible for the use of the motor vehicle or motor vehicles with the permission of the named insured.
3. Insure the insured or other person against loss from any liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property caused by accident and arising out of the ownership, use, or operation of such motor vehicle or motor vehicles within the Commonwealth, any other state in the United States, or Canada, subject to a limit exclusive of interest and costs, with respect to each motor vehicle, of \$25,000 because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of \$50,000 because of bodily injury to or death of two or more persons in any one accident, and to a limit of \$20,000 because of injury to or destruction of property of others in any one accident.'

#### **COMPLIANCE WITH ARTICLE 13 (SECTION 46.2-1095 ET SEQ.) OF CHAPTER 10 OF TITLE 46.2 REGARDING CHILD RESTRAINT DEVICES**

Section 46.2-1095 of the Code states any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child through age five, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets standards adopted by the United States Department of Transportation." The Code also requires that any person transporting any child less than sixteen years old, except those required pursuant to subsection A to be secured in a child restraint device, shall ensure that such child is provided with and properly secured by an appropriate safety belt system when driving on the highways of Virginia in any motor vehicle manufactured after January 1, 1968, equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices.

#### **COMPLIANCE WITH SECTION 63.2-1724 RELATING TO BACKGROUND CHECKS**

Section 63.2-1724 of the Code requires criminal record checks and child abuse and neglect central registry checks for prospective employees or volunteers or any other person who is expected to be alone with one or more children enrolled in the child day center. The checks

and clearances must be obtained within thirty days of employment or commencement of volunteer service. Sworn disclosure statements are also required for prospective employees and volunteers. See Section III for detailed information.

### **COMPLIANCE WITH SECTION 63.2-1809 REGARDING PROOF OF A CHILD'S IDENTITY AND AGE; REPORTS TO LAW ENFORCEMENT**

Section 63.2-1809 mandates that a regulated child day program shall require proof of a child's identity and age as well as information from the person enrolling the child regarding previous child day care and schools attended by the child. If the parent, guardian, or other person enrolling a child in a regulated child day program for longer than two consecutive days or other pattern of regular attendance does not provide the information required within seven business days of initial attendance, the child day program shall immediately notify the local law-enforcement agency of such failure to provide the requested information.

A "regulated child day program" is one in which a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under age thirteen for less than a twenty-four hour period. Child day centers sponsored by religious institutions, which are exempt from licensure pursuant to §63.2-1716 of the Code are "regulated child day programs."

The requirements of this law are applicable to any child enrolled on or after July 1, 1998. The center must require persons enrolling a child in the program to provide information regarding the child's previous child care and school attendance and to present proof of the child's identity and age.

Persons enrolling a child in the center on or after July 1, 1998 must provide information on all previous programs and schools the child has attended, including the names of the programs and schools and their location (city and state), in order to assure proper identification of the programs or schools.

Persons enrolling a child in the center on or after July 1, 1998 must also provide proof of a child's identity and age. Proof of a child's identity and age may include a certified copy of the child's birth certificate, notification of birth (hospital, physician or midwife record), birth registration card, passport, copy of the placement agreement or other proof of the child's identity from a child placing agency (foster care and adoption agencies), copy of the entrustment agreement conferring temporary legal custody of a child to an independent foster parent, school record from a public school in Virginia, or certification by a principal or his designee of a public school in the U. S. that a certified copy of the child's birth record was previously presented.

Viewing the child's proof of identity and age is not necessary when the child attends a public school in Virginia and the center assumes responsibility for the child directly from the school (i.e., after school program) or the center transfers responsibility of the child directly to the school (i.e., before school program). While programs are not required to keep the proof of the child's identity, documentation of viewing this information must be maintained for each

child. Documentation should include the child's place of birth, birth date, birth certification number and date of certificate issuance, if available. **Effective July 1, 2004 the proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.**

If the person enrolling the child in a regulated child day program for longer than two consecutive days or other pattern of regular attendance does not provide the abovementioned information within seven business days of initial attendance, the regulated program must immediately notify the local law enforcement agency in its jurisdiction. The law enforcement agency will, if available information warrants, submit an inquiry to the missing Children Information Clearinghouse and, with the assistance of the local department of social services, if available information warrants, conduct the appropriate investigation to determine whether the child is missing.

Inability to present the above information within the time frames outlined in the law does not prohibit enrollment or attendance of the child. The program must however, document that the local law enforcement agency was contacted.

## **SECTION III**

### **BACKGROUND CHECKS**

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## Background Checks

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### Code of Virginia background check requirements

Section 63.2-1716 of the Code provides that, prior to beginning operation of a religiously exempt child day center, the religious institution must file with the Commissioner documentary evidence of compliance with background checks requirements, as found in Section 63.2-1724 of the Code, for any person who will be expected to be alone with one or more children, except a parent-volunteer as defined below.

After the center is in operation, any religiously exempt center must comply with Section 63.2-1724 of the Code. The Code requires a prospective employee or volunteer or any other person expected to be alone with one or more children enrolled in the child day center, to:

- Provide before working, volunteering, or being alone with one or more children, a sworn statement or affirmation disclosing whether or not the person has ever been:
  - (i) the subject of a founded complaint of child abuse or neglect anywhere, or
  - (ii) convicted of a crime or is the subject of pending criminal charges for any offense within Virginia or any equivalent offense outside Virginia;
- Provide before the end of thirty days after beginning employment, volunteering, or being expected to be alone with one or more children a search of the central registry maintained pursuant to Section 63.2-1515 of the Code on any founded complaint of child abuse or neglect; and
- Provide before the end of thirty days after beginning employment, volunteering, or being expected to be alone with one or more children a criminal record check as provided in subdivision A 11 of Section 19.2-389 of the Code.

(The above provisions do not apply to a parent or guardian who may be left alone with his or her own child.)

Convictions include prior adult conviction and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Anyone making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. Convictions that prevent a person from being employed, volunteering, or being alone with one or more children include:

- 1) crimes identified as barrier crimes, and

2) any other felony conviction in the last five years. The list of barrier crimes is attached.

Provisions referring to volunteers apply only to volunteers who will be alone with any child in the performance of their duties and do not apply to a parent-volunteer of a child attending the religiously exempt center whether or not the parent-volunteer will be alone with any child in the performance of his duties. A parent volunteer is someone supervising, without pay, a group of children which includes the parent volunteer's own child, in a program which operates no more than four hours per day, where the parent-volunteer works under the direct supervision of a person who has received the background checks specified in Section 63.2-1724. Parents in programs operating more than four hours a day are considered "volunteers" and must meet the requirements for a "volunteer."

### **How to obtain background checks forms**

A model "Sworn Statement or Affirmation" (032-05-160/5 Revised 2/04) is included in Section V. It may be copied and used. Since the form is a model form, the Department of Social Services will accept different forms that contain the same information as the model form.

A copy of "Virginia Department of Social Services/Child Protective Services Request for Search of the Central Registry and Release of Information Form" (032-02-1515/1) and the procedure for requesting a search is included in Section V. This form may be copied and used, downloaded from the Department of Social Services website at [www.dss.state.va.us/family/cps.form](http://www.dss.state.va.us/family/cps.form). If downloading or copying this form, you must make the form into a 1 page, two-side form or it may be returned by the Child Protective Services Unit. You may also order forms by mailing a request to:

Child Protective Services  
Virginia Department of Social Services  
7 N. Eighth Street  
Richmond, Virginia 23219

A separate form must be completed for each individual whose name is to be searched. This form must be notarized. Incomplete forms will be returned.

The "Name Search Request Form for Criminal History Record and/or Sex Offender and Crimes Against Minors Registry Search" form (SP -230 Revised 7/1/03) may be downloaded from the Virginia State Police website at [www.vsp.state.va.us](http://www.vsp.state.va.us) and follow the links for criminal record checks. Two copies of the downloaded form should be sent to the Virginia State Police. For more than two or three requests, the carbonless duplicate forms of the Virginia State Police must be used. The forms may be ordered by telephone at (804) 674-2024 or by fax at (804) 674-2690. A sample form is included in Section V. Please note that only Criminal History Records Checks are required for religiously exempt centers. Sex Offender Registry checks are not required and the crimes in that Registry are included in the Criminal History Records Checks. Incomplete or inaccurate forms will be returned.

### **Satisfactory background checks explained**

A satisfactory sworn statement or affirmation is a fully completed original that states that the person:

- 1) does not have an offense as defined in §63.2-1719 of the Code of Virginia, which includes the list of barrier crimes, or a felony conviction within the last five years; and
- 2) is not the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.

A satisfactory central registry finding is one in which:

- 1) a copy of the Virginia Department of Social Services' child protective services check form is returned with an indication that, as of the date on the reply, the individual whose name was searched is not identified in the Central Registry of Founded Child Abuse/Neglect Investigations as an involved caregiver with a founded disposition of child abuse/neglect, and
- 2) there is no other knowledge that the individual has a founded disposition in Virginia or elsewhere.

A satisfactory criminal history record check report is one in which:

- 1) an original hard copy or internet inquiry reply from the Virginia State Police is returned to the agency, individual or authorized agent making the request with either no convictions indicated, or if convictions are indicated, no barrier crimes or other felony convictions in the last five years, and
- 2) there is no other knowledge that the individual has a barrier crime, or other felony conviction in the past five years, in Virginia or elsewhere.

### **Consequences of unsatisfactory background check findings**

Potential employees, volunteers, or persons expected to be alone with one or more children are denied employment or volunteer or other service status if there are unsatisfactory background check findings. The Department of Social Services may revoke the religious exempt status of a center if a religiously exempt center does not comply with these requirements.

The religiously exempt center must provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to anyone denied employment or service because of information from the central registry or convictions appearing on his criminal history record. Further dissemination of the information provided to the facility is prohibited.



## **Comprehensive List of Barrier Crimes for Child Welfare Agencies**

The Code of Virginia states that convictions of certain felony or misdemeanor crimes prohibit a person from operating or working in a child welfare agency. Attached is the Comprehensive List of Barrier Crimes for Child Welfare Agencies. This includes criminal code sections for barrier crimes covered by "et seq." language. Several of the criminal code citation references use the term "et seq." This means all crimes "that follow." For example, when the law states "assault and bodily wounding as set out in article 4 (§18.2-51 et seq.)," then all sections that follow §18.2-51 in article 4 are included. Therefore, each crime listed between §18.2-51 through §18.2-57.2 would be a barrier crime.

If you have questions about barrier crimes or are uncertain if a conviction is a barrier crime, please contact the field licensing office.

The Code of Virginia is available via the Internet. Use the following directions to get to the criminal code section of the Code of Virginia page of the Commonwealth of Virginia web site:

[www.state.va.us](http://www.state.va.us)

click on "Government"

click on "Code of Virginia"

On the Virginia General Assembly Homepage, the bottom right corner has the link to the Code of Virginia

Scroll down and click on "Title 18.2-Crimes and Offenses Generally"

Then click on the Chapter that has the code citation that you wish to view

Then click on the code citation (code citations are listed sequentially)

Example: for murder and manslaughter, click on Chapter 4 and then click on 18.2-30

Or if you know the Code citation, enter that information on the Code of Virginia Homepage as the search phrase.

## Citations for Barrier Crimes for Child Welfare Agencies

Code citations include felony and misdemeanor convictions. These misdemeanor convictions are barriers, unless the code specifically states "only felony violations." The Code of Virginia §63.2-1719 specifies "only felony violations" for §18.2-60.3, stalking and Chapter 7, Article 1-Drugs (§ 18.2-247 et seq.).

### TITLE 18.2- CRIMES AND OFFENSES GENERALLY

#### CHAPTER FOUR - CRIMES AGAINST THE PERSON

ARTICLE ONE - HOMICIDE (§ 18.2-30 et seq. This includes §18.2-30 - §18.2-37):

ARTICLE ONE - HOMICIDE	
Murder and manslaughter	18.2-30
Capital murder	18.2-31
First and second degree murder	18.2-32
Murder of a pregnant woman	18.2-32.1
<b>Killing a fetus</b>	<b>18.2-32.2</b>
Felony homicide	18.2-33
Voluntary manslaughter	18.2-35
Involuntary manslaughter	18.2-36.1
Death outside the Commonwealth	18.2-37
ARTICLE TWO - CRIMES BY MOB	
Shooting, stabbing, etc. with intent to maim, kill, etc. by mob	18.2-41
ARTICLE THREE - KIDNAPPING	
Abduction and kidnapping	18.2-47 A
Abduction with intent to extort money or for immoral purposes	18 2-48

ARTICLE FOUR - ASSAULTS & BODILY WOUNDING (§ 18.2-51 et seq. This includes § 18.2- 51 - §18.2-57.2):

Shooting, stabbing, etc. with intent to maim, kill, etc.	18.2-51
Malicious bodily injury to law enforcement officers or firefighters	18.2-51.1
Aggravated malicious wounding	18.2-51.2

Prohibition against reckless endangerment throwing objects	18.2-51.3
Maiming of another resulting from driving intoxicated	18.2-51.4
Malicious bodily injury means of caustic substance or agent or use of any explosive or fire	18.2-52
Possession of infectious biological substances	18.2-52.1
Shooting, etc, in committing or attempting to commit a felony	18.2-53
Use or display of firearm in committing felony	18.2-53.1
Conviction of assault and battery, as a lesser offense	18.2-54
Attempts to poison	18.2-54.1
Adulteration of food, drink, drugs, cosmetics, etc.	18.2-54.2
Bodily injuries caused by prisoners, probationers or parolees	18.2-55
<b>Hazing of youth gang members</b>	<b>18.2-55.1</b>
Hazing unlawful, civil and criminal liability	18.2-56
Reckless handling of firearms; reckless handling while hunting	18.2-56.1
Allowing access to firearms by children	18.2-56.2
Assault and battery (simple assault or assault and battery)	18.2-57
Pointing laser at law enforcement	18.2-57.01
Disarming a law enforcement or correctional officer	18.2-57.02
Repealed in 1997, convictions prior to 7/1/1997 are still barrier crimes	18.2-57.1
Assault and battery against a family or household member	18.2-57.2
<b>ARTICLE FIVE - ROBBERY</b>	
(Robbery) How punished	18.2-58
Carjacking	18.2-58.1
<b>ARTICLE SIX - EXTORTION AND OTHER THREATS</b>	
Threats of death or bodily injury	18.2-60
Stalking (Only "FELONY " violations)	18.2-60.3



**ARTICLE SEVEN - CRIMINAL SEXUAL ASSAULT (§ 18.2-61 et seq. This is §18.2-61 -18.2-67.10):**

Rape	18.2-61
Carnal knowledge of child between 13 and 15 years of age	18.2-63
Death of victim	18.2-63.1
Carnal knowledge of certain minors	18.2-64.1
Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or post-trial offender criminal	18.2-64.2
Marriage to child over fourteen	18.2-66
Depositions of complaining witnesses	18.2-67
Forcible Sodomy	18.2-67.1
Object sexual penetration	18.2-67.2
Marital sexual assault	18.2-67.2:1
Aggravated sexual battery	18.2-67.3
Sexual battery or attempted sexual battery	18.2-67.4
Infected sexual battery	18.2-67.4:1
Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery	18.2-67.5

## CHAPTER FIVE - CRIMES AGAINST PROPERTY

ARTICLE ONE - ARSON AND RELATED CRIMES (§ 18.2-77 et seq. This is § 18.2-77 - § 18.2-88):

Burning or destroying dwelling house, etc.	18.2-77
What not deemed dwelling house	18.2-78
Burning or destroying meeting house	18.2-79
Burning or destroying any other building or structure	18.2-80
Burning or destroying personal property, standing grain, etc	18.2-81
Burning building or structure while in such building or structure with intent to commit felony	18.2-82
Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc.	18.2-83
Causing, inciting, etc., commission of act proscribed by § 18.2-83	18.2-84
Manufacture, possession, use, etc., of fire bombs or explosive materials or devices	18.2-85
Setting fire to woods, fences, grass, etc.	18.2-86

Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized	18.2-87
Setting off chemical bombs capable of producing smoke in certain public building	18.2-87.1
Carelessly damaging property by fire	18.2-88

ARTICLE TWO -BURGLARY AND RELATED OFFENSES (§18.2-89 et seq. This is § 18.2-89 - §18.2-94):

Burglary	18.2-89
Entering dwelling house, etc. with intent to commit murder, rape, robbery or arson	18.2-90
Entering dwelling house, etc. with intent to commit larceny, assault and battery or other felony	18.2-91
Breaking and entering dwelling with intent to commit other misdemeanor	18.2-92
Entering bank, armed, with intent to commit larceny	18.2-93
Possession of burglarious tools, etc.	18.2-94

## CHAPTER SEVEN - CRIMES INVOLVING HEALTH AND SAFETY

ARTICLE ONE - DRUGS (§18.2-247 et seq. This is §18.2-247 – §18.2-265):  
(Only "FELONY" violations in Article One)

Use of terms "controlled substances," "marijuana," "Schedules I, II, III, IV, V and VI" and "imitation controlled substance"	18.2-247
Manufacturing, selling, giving, distributing or possessing with intent to manufacture, sell, give or distribute a controlled substance or an imitation controlled substance prohibited; penalties	18.2-248
Transporting controlled substances into the Commonwealth	18.2-248.01
Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana.	18.2-248.1
Professional use of imitation controlled substances	18.2-248.3
Prohibiting advertisement of imitation controlled substances	18.2-248.4
Illegal stimulants and steroids; penalty	18.2-248.5
Money laundering; penalty	18.2-248.7
Seizure of property	18.2-249

Possession of controlled substances unlawful	18.2-250
Persons charge with first offense	18.2-251
Substance abuse screening and assessment for felony convictions	18.2-251.01
Drug Offender Assessment Fund	18.2-251.02
Possession or distribution of marijuana for medical purposes permitted	18.2-251.1
Possession and distribution of flunitrazepam	18.2-251.2
Penalty for possession and distribution of gamma-butyrolactone or 1,4-butanediol	18.2-251.3
Penalty for defeating drug and alcohol screening tests	18.2-251.4
Suspended sentence conditioned on submission to periodic Medical examinations and tests	18.2-252
Disposal of seized substances	18.2-253
Destruction of seized substances prior to trial	18.2-253.1
Maintenance of custody of controlled substances	18.2-253.2
Commitment of convicted person to treatment for drug or alcohol abuse	18.2-254
Distribution of certain drugs to persons under eighteen prohibited	18.2-255
Distribution, sale or display of printed material advertising instruments used in administering marijuana or controlled substances to minors	18.2-255.1
Prohibiting the sale of drugs on or near certain properties	18.2-255.2
Conspiracy to commit any offense in this article	18.2-256
Attempts to commit any offense defined in this article	18.2-257
Certain premises deemed common nuisance	18.2-258
Enjoining nuisances involving illegal drug transactions	18.2-258.01
Maintaining a fortified drug house; penalty	18.2-258.02
Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery	18.2-258.1
<b>Assisting individuals in unlawfully procuring prescription drugs</b>	<b>18.2-258.2</b>
Penalties to be in addition to civil or administrative sanctions	18.2-259

Forfeiture of driver's license for violations of article	18.2-259.1
Prescribing, dispensing, etc., drug except as authorized in article and Drug Control Act	18.2-260
Monetary penalty	18.2-261
Witnesses not excused from testifying or producing evidence	18.2-262
Exemptions	18.2-263
Inhaling drugs or other noxious chemical substance or causing, etc. others to do so	18.2-264
Charges for forensic laboratory analysis	18.2-264.01
ARTICLE FOUR-DANGEROUS USE OF FIREARMS OR OTHER WEAPONS	
Shooting from vehicles so as to endanger persons	18.2-286.1
ARTICLE FIVE- UNIFORM MACHINE GUN ACT	
Use of machine gun in crime of violence	18.2-289
Use of machine gun for aggressive purpose	18.2-290
ARTICLE SIX - "SAWED-OFF SHOTGUN" AND "SAWED-OFF RIFLE ACT"	
Possession or use of "sawed-off "I shotgun or rifle in crime of violence	18.2-300 A
ARTICLE EIGHT- MISCELLANEOUS DANGEROUS CONDUCT	
Failing to secure medical attention for injured child	18.2-314

## CHAPTER EIGHT - CRIMES MORALS AND DECENCY

ARTICLE THREE - SEXUAL OFFENSES AND PROSTITUTION	
Taking, detaining, etc. person for prostitution, etc. or consenting thereto	18.2-355
Crimes against nature (only if children are involved)	18.2-361

ARTICLE FOUR - FAMILY OFFENSES CRIMES AGAINST CHILDREN. ETC.	
Adultery and fornication by persons forbidden to marry; incest	18.2-366
Abuse and neglect of incapacitated adults	18.2-369
Taking indecent liberties with children	18.2-370
Taking indecent liberties with child by person in custodial or Supervisory relationship	18.2-370.1
Abuse and neglect of children	18.2-371.1
ARTICLE 5 - OBSCENITY AND RELATED OFFENSES	
Production, publication, sale, possession with intent to distribute, financing, etc., of sexually explicit items involving children; presumption as to age; severability	18.2-374.1
Possession of child pornography	18.2-374.1:1
Use of communications systems to facilitate certain offenses involving children	18.2-374.3
Employing or permitting a minor to assist in offense under this article	18.2-379

**A conviction of the below offenses is only a barrier if a minor is employed or permitted to assist in the offense (§ 18.2-372 et seq. This is §18.2-372 - 389):**

"Obscene" defined.	18.2-372
Obscene items enumerated	18.2-373
Production, publication, sale, possession, etc., of obscene items.	18.2-374
Seizure and forfeiture of property used in connection with production of sexually explicit items involving children	18.2-374.2
Obscene exhibitions and performances	18.2-375
Advertising, etc., obscene items, exhibitions or performances	18.2-376
Placards, posters, bills, etc.	18.2-377
Coercing acceptance of obscene articles or publications	18.2-378
(This citation is in Article 5 list above)	18.2-379
Punishment for first offense	18.2-380
Punishment for subsequent offenses; additional penalty for owner	18.2-381
Photographs, slides and motion pictures	18.2-382
Exceptions to application of article	18.2-383
Proceeding against book alleged to be obscene	18.2-384



Section 18.2-384 applicable to motion picture films.	18.2-385
Showing previews of certain motion pictures.	18.2-386
Unlawful filming, videotaping or photographing of another; penalty.	18.2-386.1
Indecent exposure.	18.2-387
Profane swearing and intoxication in public; penalty; transportation of public inebriates to detoxification center.	18.2-388
Adoption of ordinances prohibiting obscenity	18.2-389

CHAPTER TEN – CRIMES AGAINST THE ADMINISTRATION OF JUSTICE  
ARTICLE SEVEN- ESCAPE OR, COMMUNICATIONS WITH, AND DELIVERIES TO PRISONERS

Delivery of drugs, firearms, explosives, etc. to prisoners	18.2-474.1
Prisoner escaping from jail	18.2-477

TITLE 53.1- PRISONS AND OTHER METHODS OF CORRECTION  
CHAPTER SEVEN – CRIMES AND CRIMINAL PROCEEDING INVOLVING PRISONERS

ARTICLE ONE – CRIMES BY PRISONERS

Felonies by prisoners	53.1-203
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From the Code of Virginia, Chapter 17 – Licensure and Registration Procedures

**§ 63.2-1719. Definitions.**

As used in this subtitle:

"Barrier crime" means a conviction of murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious wounding by mob as set out in, § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily wounding as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1,

abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, "barrier crime" shall also include convictions of burglary as set out in Article 2 (§ 18.289 et seq.) of Chapter 5 of Title 18.2 and any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an equivalent offense in another state.

"Offense" means a barrier crime and, in the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, (i) a conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction and (ii) a founded complaint of child abuse or neglect within or outside the Commonwealth. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

(1985, c. 360, § 63.1-198.1; 1986, cc. 300, 627; 1987, cc. 130, 131, 692, 693; 1992, c. 746; 1993, cc. 730, 742; 1996, c. 747; 1998, cc. 551, 581; 1999, c. 740; 2001, c. 778; 2002, c. 747; 2003, c. 467.)

### **63.2-1723. Child welfare agencies; criminal conviction and waiver.**

A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-21720, 63.2-1721 and 63.2-1724, may apply in writing for a waiver from the Commissioner. The Commissioner may grant a waiver if the Commissioner determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care. The Commissioner shall not grant a waiver to any person who has been convicted of a barrier crime as defined in § 63.2-1719. However, the Commissioner may grant a waiver to a family day home regulated by the Department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or § 18.2-57.2, provided (a) five years have elapsed following the conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an assessment of the safety of children placed in the home and (2) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2. Any waiver granted under this

section shall be available for inspection by the public. The child welfare agency shall notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees or volunteers.

B. The Board shall adopt regulations to implement the provisions of this section.

(1998, cc. 551, 581, § 63.1-198.4; 2001, c. 867; 2002, c. 747.)

**§ 63.2-1724. Records check by unlicensed child day center; penalty.**

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a prospective employee or volunteer or any other person who is expected to be alone with one or more children enrolled in the child day center to obtain within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389 and shall refuse employment or service to any person who has any offense defined in § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.

The provisions of this section referring to volunteers shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending the child day center whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children which includes the parent-volunteer's own child, in a program which operates no more than four hours per day, where the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

(1985, c. 360, § 63.1-198.2; 1987, cc. 130, 692, 693; 1993, cc. 730, 742; 1998, cc. 551, 581; 2000, cc. 210, 248; 2002, c. 747; 2003, c. 467.)

**§ 63.2-1725. Records checks of child day centers or family day homes receiving federal, state or local child care funds; penalty.**

Whenever any child day center or family day home that has not met the requirements of §§ 63.2-1720, 63.2-1721 and 63.2-1724 applies to enter into a contract with a local department to provide child care services to clients of the local department, the local department shall require a criminal records check pursuant to subdivision A 11 of § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child abuse or neglect investigation, of the applicant; any employee; prospective employee; volunteers; agents involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a family day home. The applicant shall provide the local department with copies of these records checks. The child day center or family day home shall not be permitted to enter into a contract with a local department for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home has any offense as defined in § 63.2-1719. The child day center or family day home shall also require the above individuals to provide a sworn statement or affirmation disclosing whether or not the person has ever been (i) the subject of a founded case of child abuse or neglect or (ii) convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information from the central registry or convictions appearing on his criminal history record, the child day center or family day program shall provide a copy of such information obtained from the central registry or Central Criminal Records Exchange or both to the person. Further dissemination of the information provided to the facility, beyond dissemination to the local department, is prohibited.

(1999, c. 727, § 63.1-198.5; 2002, c. 747.)

## **PROCEDURES FOR CENTRAL REGISTRY SEARCHES**

A search of the Central Registry of Founded Investigations for purposes other than a child protective services investigation will only be completed:

- Upon receipt of a notarized signature of the individual whose name is being searched authorizing release of such information;

or

- A court order specifying a search of the Central Registry.

Information will be released ONLY on individuals who have a founded abuse/neglect complaint. Information will not be released on any active child abuse/neglect investigation that has a disposition of pending. In addition, if the individual has filed a valid appeal, the results of the search cannot be revealed until all administrative appeal rights have been exhausted and the founded disposition has been upheld.

### **1. Requesting a Search:**

A Child Protective Services Request for Search of the Central Registry and Release of Information form (032-02-1515/1) should be submitted to the Child Protective Services Unit of the Virginia Department of Social Services for each individual for whom a search is requested. Requests must be accompanied by a \$5.00 money order, company check/business check or cashier's check payable to the Virginia Department of Social Services. Cash should not be sent. Incomplete forms, requests not accompanied by a proper check or money order, or forms on which the signature has not been properly notarized, will be returned unprocessed.

### **2. Results of the Search:**

A. If the name being searched is not located in the central Registry, notice of such will be transmitted to the requesting party.

B. On occasion, additional information may be needed to determine if the name has been located in the Central Registry. Name changes, differences in spelling of names, address changes, incomplete or inaccurate recording of birth dates, information dating from the 1970's and structural changes of the Central Registry through the years, all contribute to the difficulties encountered in completing searches of the many names contained in the Central Registry. If supplemental information is needed, a request for such information will be made, and following receipt of the additional information, the search will be completed.

C. If the name being searched is located in the Central Registry, the Virginia Department of Social Services (VDSS) staff will contact the local department

of social services that was responsible for the investigation which resulted in the name being entered in the Central Registry and:

1. The local department will verify that the information is correct or, in cases where there is a discrepancy, will correct the information.
2. The local department will send verification that the client was notified of his/her right to appeal, and:
  - a. The Virginia Department of Social Services (VDSS) staff will notify the authorized agent that the name of the individual being searched has been located in the Central Registry. The local department of social services and the individual being searched will receive a copy of the notification.
  - b. The local department of social services will release appropriate information to the authorized agent upon receipt of their request.
3. If the local department of social services cannot produce documentation that the client was notified of his/her appeal rights, VDSS will contact the local department to review the case.
  - a. If the individual's name remains in the Central Registry, VDSS will return the form to the authorized agent indicating that the name is listed in the Central Registry. A copy of this form will be sent to the individual whose name was searched and to the local department responsible for the name being entered into the Central Registry.
  - b. If the individual contacts the local department of social services regarding his/her name entry into the Central Registry, the local department of social services shall provide the individual with the requested information that is available to them under the Privacy Protection Act of 1976, and provide a copy of the appeal procedures to the individual.
  - c. If the individual decides to contest the finding(s), the local department of social services can either grant a local conference or forward the appeal request to the State Hearing Officer. The State Hearing Officer will determine the validity of the request for a hearing.

Should the appeal result in a different disposition, the authorized agent will be notified of the new status of the individual's name entry by Central Registry staff.

## **SECTION IV**

### **ON-SITE VISITS AND INSPECTIONS**

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## ON-SITE VISITS AND INSPECTIONS

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Section 63.2-1716 of the Code of Virginia states licensing staff may perform on-site inspections of religious institutions/centers sponsored by religious institutions to confirm compliance with the provisions of the Code and to investigate complaints that the center is not in compliance with the provisions of the Code.

Announced visits or inspections will be made upon a request for consultation or when the exemption information submitted indicates a centers need for assistance in complying with the law. Unannounced inspections will be made to conduct complaint investigations.

During on-site compliance determination inspections, licensing staff will evaluate the centers compliance with those items outlined in the Code. The Code requirements relate to the health and safety of children and do not include the center's program content or philosophy.

Section 63.2-1728 of the Code states that upon receipt of a complaint concerning the operation of an assisted living facility, adult day care center or child welfare agency, regardless of whether the program is subject to licensure, the Commissioner shall for good cause shown, cause an investigation to be made, including on-site visits as deemed necessary, of the activities, services, records and facilities. The facility must afford licensing staff reasonable opportunity to inspect all of the activities, services, records and facilities, and to interview is agents and employees and any child or other person within its custody or control. "For good cause shown" means that the complaint addresses issues covered under § 63.2-1716 of the Code and the complaint, on its face or in the context of information known to licensing staff, discloses no evidence that the complaint was brought to harass, to retaliate, or otherwise to achieve an improper purpose, such that the improper purpose casts serious doubt on the veracity of the complaint.

### **COMPLIANCE PLAN**

A Compliance Plan will be developed with the center when noncompliance with Code requirements is found. The center will be asked to provide a written description of the actions that will be taken to correct the areas of noncompliance and to provide a date by which time corrections will have been made.

The completed Compliance Plan must be signed and dated by licensing staff and a center representative. A copy of the plan is left on-site for center files.

If the center wants further discussion of the findings outlined in the plan, a conference with the licensing inspector and his/her supervisor may be requested. The request should be made within one week of the exit interview.

In addition to the information noted on the Compliance Plan, documentation of the following may be noted by staff during the on-site visit:



- Positive aspects of the facility;
- Corrective action taken during the visit;
- Consultation provided; and
- Consultation requested.

## **PROBLEM-SOLVING CONFERENCES**

If center representatives believe that the laws have been applied or interpreted in a manner that is unreasonable, and the issue cannot be resolved with the assigned representative, the facility may request a problem-solving conference. The informal conference steps outlined below are available.

The religiously exempt center director may request either a desk review by, or a meeting with, the assigned representative's immediate supervisor.

A. If the request stems from a desire to contest the findings of an on-site visit, the following procedures shall apply:

1. The director must make the request within 15 days of receiving the Compliance Plan.
2. The request shall specify the contested finding(s) or conclusion and must specify whether a desk review or conference is being requested.
3. The request shall include the director's reasons for contesting the findings or other evidence supporting the request for a review or a conference.

B. The first step an informal review or conference will be held at the supervisor's office unless the supervisor designates a different location. The following procedures apply:

1. The supervisor shall report the findings of a desk review in writing within 10 days of receiving the request and supporting materials or shall hold the requested conference within 30 days of receipt of such request and materials.
2. When the request is for a conference, the supervisor shall, within 10 days following the conference, confirm to the director in writing the results of the conference and any subsequent decisions made by the supervisor. If, after the first step review, you believe that the laws, regulations, or departmental policies have been applied or interpreted in a manner that was unreasonable,

arbitrary, or capricious, you may request a second step review by program supervisory personnel as assigned by the Director of Licensing Programs.

A. A second step informal review shall not be requested to challenge the content of an established law, regulation or policy. However, the application of a law, regulation or policy may be challenged.

B. When second step problem-solving conferences are requested, the request must be in writing and must specify whether the director is requesting a desk review or a conference. Conferences shall be held in the region in which the religiously exempt center is located or in Richmond, as designated by the Director of Licensing Programs; the designated location shall be as close to the center as possible.

C. The second step problem-solving request shall:

1. Be made within 15 days of the date of the first step response;
2. Specify the reason for requesting the second step informal review and include such information, explanation, or additional materials as necessary to support your belief that the decision reached at the first step was unreasonable, arbitrary, or capricious; and
3. Include a copy of relevant material and correspondence developed at the first step of the problem-solving conference.

D. Within 30 days of receipt of this request, the Director of Licensing must respond in writing or schedule the conference.

E. When the request is for a conference, the designated staff shall, within 10 days following the conference, confirm to the facility director in writing the results of the conference and any subsequent decisions made by program management staff.

## SAMPLE COMPLIANCE PLAN FORM

EXEMPT CHILD DAY CENTERS  
VIRGINIA DEPARTMENT of SOCIAL SERVICES

DIVISION of LICENSING PROGRAMS

Facility Name \_\_\_\_\_ Inspection Date \_\_\_\_\_ Findings Review Date \_\_\_\_\_

Inspection Type: (Circle one)    Monitoring                      Complaint

(Circle one)    Announced                      Unannounced                      Follow-up Date \_\_\_\_\_ By \_\_\_\_\_

CODE SECTION	DESCRIPTION OF VIOLATION	DESCRIPTION OF ACTION TO BE TAKEN (Preventative Actions & Staff Responsible)	DATE TO BE CORRECTED	VERIFICATION CORRECTION Yes/No; NA; or

The facility representative wants further discussion of the findings, a conference with the licensing inspector and his/her supervisor may be requested. Please contact your licensing within fifteen days of the findings review date to request a conference.

Inspector Signature \_\_\_\_\_ Date \_\_\_\_\_ Facility/Program Representative Signature \_\_\_\_\_  
Date Received \_\_\_\_\_ Date Completed \_\_\_\_\_

## COMPLIANCE PLAN

### WRITTEN NOTIFICATION TO PARENTS/GENERAL PUBLIC

63.2-1716.A	Exemption of Licensure
63.2-1716.A	Qualifications of Personnel
63.2-1716.A.6	Physical Facilities
63.2-1716.A.6	Enrollment Capacity
63.2-1716.A.6	Food Service
63.2-1716.A.6	Health Requirements for Staff
63.2-1716.A.6	Public Liability Insurance

### PROCEDURES (Established and Implemented)

63.2-1716.B.1	Hand Washing by Staff/Children
63.2-1716.B.2	Supervision of Children Intake/Dismissal
63.2-1716.B.3	Health Screening and Exclusion of Sick Children
63.2-1716.B.4	Person Trained and Certified in First Aid
63.2-1716.B.5	Immunization of Children Against Certain Diseases
63.2-1716.B.6	Premises Free of Obvious Injury Hazards
63.2-1716.B.7	Staff Recognizes Signs of Child Abuse and Neglect

### COMPLIANCE

63.2-1716.A.3	Ratio of Adults to Children
63.2-1716.A.3	Staff Counted in Ratio only when Supervising Children
63.2-1716.A.3	One Adult Staff Regularly Present in each Grouping of children
63.2-1716.A.3	Staff at least 16 Years of Age
63.2-1716.A.3	Staff under 18 Supervised by an Adult
63.2-1716.A.3	Adult Staff Supervise no more than 2 Staff under 18 at any given time
63.2-1716.A.4	Staff Health Reports
63.2-1716.A.5.b	Criminal Record and Central Registry Checks, Sworn. Disclosure Statement
63.2-1716.A.5.c	Reporting of Suspected Cases of Child Abuse and Neglect
63.2-1716.A.5.d	Valid Commercial/Driver's License
63.2-1716.A.5.d	Inspected Vehicles
63.2-1716.A.5.d	Insured Vehicles
63.2-1716.A.5.d	Child Restraint Devices
632-1809	Proof of Age and Identity

## **SECTION V**

### **FORMS**

## STATEMENT OF INTENT

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INSTRUCTIONS: You may complete the information below and submit on an ANNUAL basis. This form MUST be signed by an administrator of the religious institution such as a pastor, priest, rabbi, or an officer of the board of directions of the sponsoring religious institution.

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The \_\_\_\_\_ intends to operate the  
(Name of Sponsor)

\_\_\_\_\_ during 20\_\_\_\_/20\_\_\_\_  
(Name of Center)

for \_\_\_\_\_ children in the age range of \_\_\_\_\_ through \_\_\_\_\_.  
(Capacity)\*

---

I certify that I am in receipt of, have read, and intend to comply with the requirements of Section 63.2-1716 of the Code. If my center is already in operation, I certify that I am in compliance with the requirements of Section 63.2-1716 of the Code.

---

(Authorized Signature)	(Title)	(Date)
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Contact Person \_\_\_\_\_ Phone Number: \_\_\_\_\_

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Address of Sponsoring Religious Institution

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Address of Child Day Center (If different)

\* Note: If your enrollment capacity or age range changes in a manner which requires a revised public notice, please update the information and submit a revised form.

## STATEMENT OF CODE COMPLIANCE

\_\_\_\_\_ operated by \_\_\_\_\_  
(Name of Center) (Name of Sponsor)

located at \_\_\_\_\_  
(Address of Center)

has disclosed in writing to the parents or guardians of children enrolled that the center is exempt from licensure and the qualifications of personnel employed.

The center's physical facilities, enrollment capacity, food services, health requirements for the staff and public liability insurance have been described in writing to the parents or guardians of the children in the center. The above information has also been made available to the general public.

The Center has established and implemented procedures for:

- Hand washing by staff and children before eating and after toileting and diapering;
- Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety of children;
- A daily simple health screening and exclusion of sick children by a person trained to perform such screenings;
- Ensuring that a person trained and certified in first aid is present at the center whenever children are present;
- Ensuring that all children in the center are in compliance with the provisions of Section 32.1-46 of the Code regarding the immunization of children against certain diseases;
- Ensuring that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment;
- Ensuring that all staffs are able to recognize the signs of child abuse and neglect.

The Center is in compliance with the requirements of:

- Section 63.2-1724 of the Code relating to background checks
- Section 63.2-1509 of the Code relating to the reporting of suspected cases of child abuse and neglect
- Chapter 3 (Section 46.2-300 et seq.) of Title 46.2 of the Code regarding a valid Virginia driver's license or commercial driver's license; of Article 21 (Section 46.2-1157 et seq.) of Chapter 10 of Title 46.2 of the Code regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in Section 46.2-705; and Article 13 (Section 46.2-1095 et seq.) of Chapter 10 of Title 46.2 of the Code regarding child restraint devices
- Section 63.2-1809 of the Code regarding proof of a child's identity and age, and reports of possible missing children to law enforcement.

I certify that the statements herein given are true, full, and correct to the best of my knowledge and belief.

\_\_\_\_\_  
\*Signature Title Date

\*NOTE: This form MUST be signed by an administrator of the religious institution such as a pastor, priest, rabbi or an officer of the board of directors of the sponsoring religious institution. All of the requirements must be met prior to signing and submitting this form.

## REPORT OF ENVIRONMENTAL HEALTH INSPECTION

Requested by VIRGINIA DEPARTMENT OF SOCIAL SERVICES

As authorized by Title 63.2, Code of Virginia

NAME OF FACILITY \_\_\_\_\_

NAME OF OPERATOR \_\_\_\_\_

LOCATION \_\_\_\_\_

### TYPE OF FACILITY

_____ Adult Care Residence	_____ Child Care Institution
_____ Adult Day Care Center	_____ Family Day Home (Complete Section A only)
_____ Child Day Center	_____ Independent Foster Home (Complete Section A only)
_____ Religious Exempt Center	_____ Certified Preschool or Nursery School Program

### SECTION A: WATER SUPPLY AND SEWAGE DISPOSAL SYSTEMS

1. Water Supply: Owned by \_\_\_\_\_ Public \_\_\_\_\_ Non-Public  
If public, operated by one or more municipalities \_\_\_\_\_ Yes \_\_\_\_\_ No  
Approved by Health Department: \_\_\_\_\_ Yes \_\_\_\_\_ No  
Date of most recent Non-Public Water Sample \_\_\_\_\_
2. Sewage Disposal System: Owned by \_\_\_\_\_  
If public, operated by one or more municipalities \_\_\_\_\_ Yes \_\_\_\_\_ No  
Approved by Health Department: \_\_\_\_\_ Yes \_\_\_\_\_ No

COMMENTS \_\_\_\_\_

### SECTION B: FOOD SERVICE

1. Food Service Facilities are in compliance with rules and regulations of Virginia Department of Health which govern restaurants: \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ N/A

COMMENTS \_\_\_\_\_

(Attach copy of Health Department Inspection Form)

### SECTION C: SWIMMING POOLS (Attach copy of Health Department Inspection Form)

1. Pool meets Health Department guidelines: \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Not Applicable

COMMENTS \_\_\_\_\_

### RECOMMENDATIONS:

1. Does this facility meet mandatory requirements of state or local health Department? \_\_\_\_\_ Yes \_\_\_\_\_ No
2. If violations of mandatory requirements were noted, how long does operator have to comply with Health Department regulations? \_\_\_\_\_
3. Do you recommend issuance of license/certification \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Not Applicable

COMMENTS \_\_\_\_\_

(County/City) \_\_\_\_\_

(Signature of Health Director or Designee) \_\_\_\_\_

( ) \_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(Date of Inspection)



## FIRE INSPECTION REPORT

TYPE OF FACILITY: (check one)

\_\_\_\_\_ LICENSED CHILD DAY CENTER

\_\_\_\_\_ CHILD CARING INSTITUTION

\_\_\_\_\_ RELIGIOUS EXEMPT CHILD DAY CENTER

\_\_\_\_\_ CERTIFIED PRESCHOOL OR NURSERY  
SCHOOL PROGRAM

Owner/Occupant \_\_\_\_\_

Date \_\_\_\_\_

Name of Facility \_\_\_\_\_

File Number \_\_\_\_\_

Address \_\_\_\_\_

Occ/Use Group \_\_\_\_\_

\_\_\_\_\_ Zip \_\_\_\_\_

Capacity \_\_\_\_\_

Inspection \_\_\_\_\_ Re-inspection \_\_\_\_\_

The following violation(s) of the Virginia Statewide Fire Prevention Code were observed during an inspection of the captioned Property. You are responsible for correcting these violations(s) within the specified time limit.

Code Section	Violation(s)	Time Limit for Correction

Failure to correct violations within the time specified in this notice may result in appropriate legal proceedings. An owner or occupant may appeal a decision of the fire official to the local Board of Appeals within seven (7) working days from receipt of this notice.

This notice issued to \_\_\_\_\_

Date \_\_\_\_\_

Inspected by: \_\_\_\_\_

Title \_\_\_\_\_

Inspecting agency: \_\_\_\_\_

ORIGINAL TO FACILITY: COPIES TO DSS AND INSPECTING AGENCY

## BUILDING INSPECTION REQUEST

SECTION I (To be completed by applicant in three (3) copies)

APPLICANT \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)

I hereby request inspection of the building(s) located at \_\_\_\_\_

\_\_\_\_\_  
(Complete Address)  
for compliance with the Uniform Statewide Building Code. Building(s) are to be utilized for the operation of a licensed:  
\_\_\_\_\_ Home for Adults \_\_\_\_\_ Adult Day Care Center  
\_\_\_\_\_ Child Care Center\* \_\_\_\_\_ Child Caring Institution\*  
\_\_\_\_\_ Group Home\* \_\_\_\_\_ Other: \_\_\_\_\_ (Specify)

\*Serves children ages \_\_\_\_ to \_\_\_\_

Date \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

SECTION II (To be completed by the building official)

	Bldg. #1	Bldg. #2	Bldg. #3
1. The Uniform Statewide Building Code Use Group Classification required for the use indicated Above			
2. Does the building meet the requirements of the Uniform Statewide Building Code for that Use Group Classification?			
3. a. If the certificate of occupancy has been issued, show classification used			
b. Date of Issuance			
4. Maximum Occupancy Load			
5. Restrictions or Limitations:			
Bldg. #1:			
Bldg. #2:			
Bldg. #3:			

Date \_\_\_\_\_ Signature of Building Official \_\_\_\_\_

SECTION III DISPOSITION

Original copy to building official, yellow copy to applicant, pink copy to Virginia Department of Social Services along with a copy of the Certificate of Occupancy.

Regional Office \_\_\_\_\_

Address \_\_\_\_\_

Att: \_\_\_\_\_  
(Licensing Specialist)

**Exempt Child Day Centers  
Model Form**

## STAFF HEALTH REPORT

### Physician's Statement

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INSTRUCTIONS: Please provide a copy of this form to each employee to be given to his/her examining physician. The top portion of the form should be completed by the employee; the bottom portion MUST be completed and signed by the PHYSICIAN. The signature of a physician's assistant, R.N., L.P.N., or nurse practitioner is NOT acceptable since §63.2-1716 of the Code specifies "has been certified by a practicing physician to be free from any disability which would prevent him from caring for children under his supervision." Staff should complete this form and submit on an ANNUAL basis.

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Name of Religious Institution

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Name of Staff Member

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This statement is signed in compliance with the Code of Virginia, Section 63.2-1716.

I certify that \_\_\_\_\_ is free from any disability  
(Patient)  
which would prevent him/her from caring for children.

Date \_\_\_\_\_  
(Month/Day/Year)

PHYSICIAN'S SIGNATURE: \_\_\_\_\_ M. D.

Physician's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number \_\_\_\_\_

## **PUBLIC DISCLOSURE STATEMENT**

The Code of Virginia, Section 63.2-1716, allows child day centers operated by religious institutions the opportunity to file for an exemption from licensure by meeting documentation and other requirements specified within the exemption law. The statements below have been prepared and distributed to meet the requirements of the exemption law.

### **EXEMPTION**

In compliance with the Code of Virginia, Section 63.2-1716, this Center is exempt from licensure and is classified as an "Exempt" child day center.

### **QUALIFICATIONS OF PERSONNEL** (Check appropriate response)

\_\_\_\_\_ Attached are position descriptions of staff presently employed with the Center.

\_\_\_\_\_ Staff position descriptions are posted for your review.

### **DESCRIPTION OF FACILITIES**

The Center is located at \_\_\_\_\_.

The size of the building is \_\_\_\_\_.

The number of rooms used for the Center is \_\_\_\_\_.

The kitchen facilities are/are not available for use by the Center.

Play equipment consist(s) of \_\_\_\_\_

\_\_\_\_\_.

### **OTHER SIGNIFICANT FEATURES OF THE FACILITIES (IF ANY) INCLUDE:**

\_\_\_\_\_

### **ENROLLMENT CAPACITY**

The maximum number of children that the Center will enroll is \_\_\_\_\_. This figure is dictated by the local building inspector.

**FOOD SERVICE** (Check appropriate response)

The Center intends/does not intend to provide food service. The description of the service consist(s) of the following:

- \_\_\_\_\_ hot breakfast
- \_\_\_\_\_ cold breakfast
- \_\_\_\_\_ combination (hot/cold) breakfast
- \_\_\_\_\_ mid-morning snack
- \_\_\_\_\_ hot lunch
- \_\_\_\_\_ cold lunch
- \_\_\_\_\_ afternoon snack

**HEALTH REQUIREMENTS FOR STAFF**

Staff employed at the Center MUST be certified by a practicing physician to be free from any disability which would prevent them from caring for children. Documentation is on file at the Center.

**PUBLIC LIABILITY INSURANCE**

The Center is/is not covered by public liability insurance which provides coverage in the event that someone brings suit for personal or bodily harm suffered during the operation of the Center as a result of negligence.

## STAFF-CHILD RATIO INFORMATION SHEET

Facility Name \_\_\_\_\_

Developed for use by religiously exempt child day centers under Section 63.2-1716 of the Code of Virginia

**INSTRUCTIONS:** List the number of children enrolled in your center in the middle column, noting in the left-hand column when major changes in enrollment occur during your hours of operation. Please do not overlap the time periods. List the staff assigned to supervise children in the right-hand column, placing the names near the age group supervised. Place an asterisk (\*) beside the names of staff persons under the age of 18 years. Use additional sheets as necessary.

TIMES	NUMBER OF CHILDREN ENROLLED BY AGE GROUP		NAMES OF STAFF ASSIGNED EACH PERIOD
	Age Group	Total Number	
_____ To _____     (For this time period)	0-24 mos. _____  2-6 yrs. _____  6yrs.+ _____	_____ _____ _____ _____ _____ _____	
_____ To _____     (For this time period)	0-24 mos. _____  2-6 yrs. _____  6yrs.+ _____	_____ _____ _____ _____ _____ _____	
_____ To _____     (For this time period)	0-24 mos. _____  2-6 yrs. _____  6yrs.+ _____	_____ _____ _____ _____ _____ _____	

**NOTE:** Staff are counted in the staff-to children ratio only when directly supervising children  
 At least one adult must be regularly present in each grouping of children  
 Staff members must be at least 16 years of age  
 Staff members under age 18 must be under the supervision of an adult staff member  
 Adult staff members may supervise no more than 2 staff members under 18 years of age at any one time

**REQUIRED STAFF-CHILD RATIOS:**

Birth – 24 mos. = 1 staff for every 4 children  
 2yrs - 6yrs = 1 staff for every 10 children  
 6yrs and over = 1 staff for every 25 children

# STAFF-CHILD RATIO INFORMATION SHEET - SAMPLE

Facility Name \_\_\_\_\_

Developed for use by religiously exempt child day centers under Section 63.2-1716 of the Code of Virginia

**INSTRUCTIONS:** List the number of children enrolled in your center in the middle column, noting in the left-hand column when major changes in enrollment occur during your hours of operation. Please do not overlap the time periods. List the staff assigned to supervise children in the right-hand column, placing the names near the age group supervised. Place an asterisk (\*) beside the names of staff persons under the age of 18 years. Use additional sheets as necessary.

TIMES	NUMBER OF CHILDREN ENROLLED BY AGE GROUP		NAMES OF STAFF ASSIGNED EACH PERIOD
	Age Group	Total Number	
<u>6:30</u> To <u>8:30</u>	0-24 mos.	<u>8</u>	<u>Ms. Kidd</u> <u>Mrs. Rogers</u>
	2-6 yrs.	<u>20</u>	<u>Mrs. Thomas</u> <u>Ms. Steinham</u>
	6yrs.+	<u>15</u>	<u>Ms. Smith</u>
	(For this time period)		
<u>8:30</u> To <u>3:30</u>	0-24 mos.	<u>8</u>	<u>Ms. Kidd</u> <u>Ms. Rogers</u>
	2-6 yrs.	<u>14</u>	<u>Mrs. Thomas</u> <u>Ms. Steinham</u>
	6yrs.+	<u>0</u>	
	(For this time period)		
<u>3:30</u> To <u>6:00</u>	0-24 mos.	<u>5</u>	<u>Ms. Lewis</u> <u>Miss Jones*</u>
	2-6 yrs.	<u>20</u>	<u>Mrs. Greene</u> <u>Miss Lee*</u>
	6yrs.+	<u>15</u>	<u>Ms. Smith</u> <u>Miss Brown*</u>
	(For this time period)		

**NOTE:** Staff are counted in the staff-to children ratio only when directly supervising children  
 At least one adult must be regularly present in each grouping of children  
 Staff members must be at least 16 years of age  
 Staff members under age 18 must be under the supervision of an adult staff member  
 Adult staff members may supervise no more than 2 staff members under 18 years of age at any one time

## REQUIRED STAFF-CHILD RATIOS:

Birth – 24 mos. = 1 staff for every 4 children  
 2yrs - 6yrs = 1 staff for every 10 children  
 6yrs and over = 1 staff for every 25 children

DEPARTMENT OF SOCIAL SERVICES  
DIVISION OF LICENSING PROGRAMS  
(Model Form)

**SWORN STATEMENT OR AFFIRMATION**

Please Print

_____ Last Name	_____ First	_____ Middle	_____ Maiden	_____ Social Security Number
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_____ Current Mailing Address	_____ Street, P.O. Box #, Apt. #	_____ City	_____ State	_____ Zip Code
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_____ Name of Licensed/Registered Approved Facility/Provider	_____ Street, P.O. Box #, Apt. #	_____ City	_____ State	_____ Zip Code
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1. Have you ever been convicted of or are you the subject of pending charges of any crime within the Commonwealth or equivalent offense outside the Commonwealth?

☐ Yes (convicted in Virginia)      ☐ Yes (pending in Virginia)      ☐ No

If yes or pending, specify crime(s): \_\_\_\_\_

☐ Yes (convicted outside Virginia)      ☐ Yes (pending outside Virginia)      ☐ No

If yes or pending, specify crime(s): \_\_\_\_\_

2. Have you ever been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth?

☐ Yes (in Virginia)      ☐ No (in Virginia)

☐ Yes (outside Virginia)      ☐ N (outside Virginia)

If yes or pending, specify state, or other location: \_\_\_\_\_

I hereby affirm that the information provided on this form is true and complete. I understand that the information is subject to verification.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



Department of Social Services  
Division of Licensing Programs  
(Model Form)

### **Explanation of Sworn Statement or Affirmation**

Requirement: Sections 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724 and 63.2-1725 of the *Code of Virginia* (Code) require individuals to provide a sworn statement or affirmation to a licensing, approving or hiring authority, facility, or agency prior to licensure, registration, approval, employment, or provision of volunteer services. A sworn disclosure or affirmation is a statement completed by a person attesting to whether he has ever been: (i) convicted of or the subject of pending charges of any crime within the Commonwealth or equivalent offense outside the Commonwealth, or (ii) the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. Additionally for family day homes, the person affirms if he, or if he knows that any person who resides in the home, has a sex offense conviction or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The statement or affirmation must be made available to the Department of Social Services' representative.

**Who must comply:** These individuals must provide sworn statements or affirmations:

- Applicant upon application for licensure or registration as a child welfare agency, and any subsequent person designated as applicant, licensee, or registrant;
- Agent at the time of application who is or will be involved in the day-to-day operation of the child welfare agency or who is or will be alone with, in control of, or supervising one or more of the children and any subsequent person designated as agent who will be involved in the day-to-day operation or will be alone with, in control of, or supervising one or more of the children;
- Any other adult living in the home of an applicant for licensure or registration or approval as a family day home, or any existing employee or volunteer, and subsequent employee or volunteer or other adult living in the home;
- Prospective foster or adoptive parent;
- Operator of family day home requesting approval by family day system;
- Person who signs the statement of intent to operate a religious exempt child day center,
- Any person who will be expected to be alone with one or more children enrolled in a religious exempt child day center; and
- Any employee or volunteer of a licensed, registered, or approved facility who is involved in the day-to-day operations or who is alone with, in control of or supervising one or more children.

Note: Any other child day center or family day home that has not otherwise met these requirements, and applies to enter into a contract with a local department to provide child care services to clients of a local department, must also submit a sworn statement or affirmation.

Exception: A parent-volunteer is not required to provide a sworn statement or affirmation. A parent volunteer is a person supervising, without pay, a group of children that includes the parent volunteer's own child in a program that operates no more than four hours per day, provided that the parent volunteer works under the direct supervision of a person who has received satisfactory background checks as provided for in the code.

Any person making a materially false statement regarding any such offense is guilty of a Class I misdemeanor.

Further dissemination of the sworn statement information is prohibited other than to the Commissioner's representative or a federal or state authority or court in order to comply with an express requirement in the law for that dissemination.

Department of Social Services  
Division of Licensing Programs  
(Model Form)

**Consequence:** If a person required to submit a sworn statement or affirmation has been: (i) convicted of a barrier crime (specified below), or (ii) convicted of any other felony in the last five years, or (iii) the subject of a founded complaint of child abuse or neglect:

- Licensure, registration or approval of a child welfare agency is prohibited;
- Licensure, registration or approval will be revoked and renewal of a license or registration or religious exempt status will be denied;
- Religious exempt status will be revoked; and
- The child welfare agency will not be permitted to receive federal, state or local child care funds.

Exception: A child-placing agency may approve as an adoptive parent an applicant convicted of not more than one misdemeanor of assault and battery, as defined in §63.2-57 of the Code, not involving abuse, neglect or moral turpitude, provided ten years have elapsed following the conviction

Exception: A person who wants to operate or to volunteer or work at a facility covered by this regulation, but who is disqualified because of a criminal conviction, or a criminal conviction in the background check of any other adult living in a family day home governed by this regulation may apply for a waiver if 1) a non-barrier crime felony conviction occurred less than five years ago, or 2) any other adult living in the home of a state regulated family day home applicant or provider has been convicted of not more than one misdemeanor offense of assault and battery or assault and battery against a family or household member. This other adult may not be an assistant or substitute provider.

Barrier crime defined: "Barrier crime" means a conviction identified in the Code at §63.2-1719. The convictions, and Code references, are: murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.), malicious wounding by mob as set out in § 18.2-41, abduction as set out in subsection A of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assault and bodily wounding as set out in Article 4 (§ 18.2-51 et seq.), robbery as set out in § 18.2-58, carjacking as set out in § 18.2-58.1, extortion by threat as set out in § 18.2-59, felony stalking as set out in § 18.2-60.3, sexual assault as set out in Article 7 (§ 18.2-61 et seq.), arson as set out in Article I (§ 18.2-77 et seq.), burglary as set out in Article 2 (§ 18.2-89 et seq.), any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-47 et seq.), drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1:1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state.

Sex offense defined: "Sex offense felony for family day homes" means conviction of a felony in violation of §§ 18.2-48, 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-355, 18.2-361, 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-371.1 or § 18.2-374.1, that prohibits a sex offender or child abuser from residing in a family day home. The description of the Code sections are abduction; actual or attempted rape; carnal knowledge of a child between thirteen and fifteen years of age; carnal knowledge of a juvenile under the purview of the Juvenile and Domestic Relations District Court, or juvenile committed to the custody of the State Department of Juvenile Justice; actual or attempted forcible sodomy or object sexual penetration; aggravated sexual battery; attempted sexual battery; taking or detaining a person or consenting to the taking of a person for prostitution or unlawful sexual intercourse; crimes against nature; incest; abuse and neglect of incapacitated adults; taking indecent liberties with children; abuse and neglect of children; indecent liberties by a person in a custodial or supervisory relationship; and production, publication, sale, possession with intent to distribute, financing, etc. of sexually explicit items.

**NAME SEARCH REQUEST FORM FOR CRIMINAL HISTORY RECORD AND/OR  
SEX OFFENDER AND CRIMES AGAINST MINORS REGISTRY SEARCH**

See the form from the Website [www.vsp.state.va.us](http://www.vsp.state.va.us)

**VIRGINIA DEPARTMENT OF SOCIAL SERVICES/CHILD PROTECTIVE SERVICES  
REQUEST FOR SEARCH OF THE CENTRAL REGISTRY AND RELEASE OF  
INFORMATION FORM**

See the form from the website [www.dss.state.va.us/family/cps\\_form](http://www.dss.state.va.us/family/cps_form)

## **SECTION VI**

### **CODE CITATIONS, REFERENCES AND RESOURCES**

## **Definitions from § 63.2-100 of the *Code of Virginia***

**(Note: not all definitions are printed here)**

As used in this title, unless the context requires a different meaning:

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions;
2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;
3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law; or
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903 and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through twelve children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board or the public agency designated by the community policy and management team where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Social services" means foster care, adoption, adoption assistance, adult services, adult protective services, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

(Code 1950, §§ 63-101, 63-222, 63-232, 63-347, 63-351; 1954, cc. 259, 290, 489; 1956, cc. 300, 641; 1960, cc. 331, 390; 1962, cc. 297, 603; 1966, c. 423; 1968, cc. 578, 585, §§ 63.1-87, 63.1172, 63.1-195, 63.1-219.7, 63.1-220; 1970, c. 721; 1972, cc. 73, 540, 718; 1973, c. 227; 1974, cc. 44, 45, 413, 415, § 63.1-250; 1975, cc. 287, 299, 311, 341, 437, 507, 524, 528, 596, §§ 63.1238.1, 63.1-248.2; 1976, cc. 357, 649; 1977, cc. 105, 241, 532, 547, 559, 567, 634, 645, §§ 63.155.2, 63.1-55.8; 1978, cc. 536, 730, 749, 750; 1979, c. 483; 1980, cc. 40, 284; 1981, cc. 75, 123, 359; 1983, c. 66; 1984, cc. 74, 76, 498, 535, 781; 1985, cc. 17, 285, 384, 488, 518; 1986, cc. 80, 281, 308, 437, 594; 1987, cc. 627, 650, 681; 1988, c. 906; 1989, cc. 307, 647; 1990, c. 760; 1991, cc. 534, 595, 651, 694; 1992 c. 356, § 63.1-194.1; 1993, cc. 730, 742, 957, 993, § 63.1196.001; 1994, cc. 107, 837, 865, 940; 1995, cc. 401, 520, 649, 772, 826; 1997, cc. 796, 895; 1998, cc. 115, 126, 397, 552, 727, 850; 1999, c. 454; 2000, cc. 61, 290, 500, 830, 845, 1058; 2002, c. 747; 2003, c. 467.)

**§ 63.2-1715. Exemptions from licensure.**

A. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.
2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.
3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.
4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.
5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.
6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of, school sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.
7. Education and care programs provided by public schools that are not exempt pursuant to subdivision A 6 shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the Commissioner.
8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.
9. Practice or competition in organized competitive sports leagues.
10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.
11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.
12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for

Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717.

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

(1993, cc. 730, 742, § 63.1-196.001; 1994, cc. 837, 940; 1999, c. 454; 2000, cc. 61, 1058; 2002, c. 747; 2003, c. 467.)

**§ 63.2-1716. Child day center operated by religious institution exempt from licensure; annual statement and documentary evidence required; enforcement; injunctive relief.**

A. Notwithstanding any other provisions of this chapter, a child day center operated or conducted under the auspices of a religious institution shall be exempt from the licensure requirements of this subtitle, but shall comply with the provisions of this section unless it chooses to be licensed. If such religious institution chooses not to be licensed, it shall file with the Commissioner, prior to beginning operation of a child day center and thereafter annually, a statement of intent to operate a child day center, certification that the child day center has disclosed in writing to the parents or guardians of the children in the center the fact that it is exempt from licensure, the qualifications of the personnel employed therein and documentary evidence that:

1. Such religious institution has tax exempt status as a nonprofit religious institution in accordance with § 501 (c) of the Internal Revenue Code of 1954, as amended, or that the real property owned and exclusively occupied by the religious institution is exempt from local taxation.
2. Within the prior ninety days for the initial exemption and within the prior 180 days for exemptions thereafter, the local health department and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, have inspected the physical facilities of the child day center and have determined that the center is in compliance with applicable laws and regulations with regard to food service activities, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code.
3. The child day center employs supervisory personnel according to the following ratio of staff to children:
  - a. One staff member to four children from zero to twenty-four months.
  - b. One staff member to ten children from ages twenty-four months to six years.
  - c. One staff member to twenty-five children ages six years and older.

Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children. In each grouping of children, at least one adult staff member shall be regularly present. Staff members shall be at least sixteen years of age. Staff members under eighteen years of age shall be under the supervision of an adult staff member. Adult staff members shall supervise no more than two staff members under eighteen years of age at any given time.

4. Each person in a supervisory position has been certified by a practicing physician to be free from any disability which would prevent him from caring for children under his supervision.

5. The center is in compliance with the requirements of:

- a. This section.



b. Section 63.2-1724 relating to background checks.

c. Section 63.2-1509 relating to the reporting of suspected cases of child abuse and neglect.

d. Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 regarding a valid Virginia driver's license or commercial drivers license; of Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of Title 46.2, regarding vehicle inspections; ensuring that any vehicle used to transport children is an insured motor vehicle as defined in § 46.2-705; and Article 13 (§ 46.2-1095 et seq.) of Chapter 10 of Title 46.2, regarding child restraint devices.

6. The following aspects of the child day center's operations are described in a written statement provided to the parents or guardians of the children in the center and made available to the general public: physical facilities, enrollment capacity, food services, health requirements for the staff and public liability insurance.

B. The center shall establish and implement procedures for:

1. Hand washing by staff and children before eating and after toileting and diapering.

2. Appropriate supervision of all children in care, including daily intake and dismissal procedures to ensure safety of children.

3. A daily simple health screening and exclusion of sick children by a person trained to perform such screenings.

4. Ensuring that a person trained and certified in first aid is present at the center whenever children are present.

5. Ensuring that all children in the center are in compliance with the provisions of § 32.1-46 regarding the immunization of children against certain diseases.

6. Ensuring that all areas of the premises accessible to children are free of obvious injury hazards, including providing and maintaining sand or other cushioning material under playground equipment.

7. Ensuring that all staff are able to recognize the signs of child abuse and neglect.

C. The Commissioner may perform on-site inspections of religious institutions to confirm compliance with the provisions of this section and to investigate complaints that the religious institution is not in compliance with the provisions of this section. The Commissioner may revoke the exemption for any child day center in serious or persistent violation of the requirements of this section. If a religious institution operates a child day center and does not file the statement and documentary evidence required by this section, the Commissioner shall give reasonable notice to such religious institution of the nature of its noncompliance and may thereafter take such action as he determines appropriate, including a suit to enjoin the operation of the child day center.

D. Any person who has reason to believe that a child day center failing within the provisions of this section is not in compliance with the requirements of this section may report the same to the local department, the local health department or the local fire marshal, each of which may inspect the child day center for noncompliance, give reasonable notice to the religious institution, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the child day center.

E. Nothing in this section shall prohibit a child day center operated by or conducted under the auspices of a religious institution from obtaining a license pursuant to this chapter.

(1979, c. 425, § 63.1-196.3; 1989, c. 258; 1993, cc. 730, 742; 2000, c. 283; 2002, c. 747.)

**§ 63.2-1728. Establishment of toll-free telephone line for complaints; investigation on receipt of complaints.**

With such funds as are appropriated for this purpose, the Commissioner shall establish a toll-free telephone line to respond to complaints regarding operations of assisted living facilities, adult day care centers and child welfare agencies. Upon receipt of a complaint concerning the operation of an assisted living facility, adult day care center or child welfare agency, regardless of whether the program is subject to licensure, the Commissioner shall, for good cause shown, cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, records and facilities. The assisted living facility, adult day care center or child welfare agency shall afford the Commissioner reasonable opportunity to inspect all of the operator's activities, services, records and facilities and to interview its agents and employees and any child or other person within its custody or control. Whenever an assisted living facility, adult day care center or child welfare agency subject to inspection under this section is determined by the Commissioner to be in noncompliance with the provisions of this subtitle or with regulations adopted pursuant to this subtitle, the Commissioner shall give reasonable notice to the assisted living facility, adult day care center or child welfare agency of the nature of its noncompliance and may thereafter take appropriate action as provided by law, including a suit to enjoin the operation of the assisted living facility, adult day care center or child welfare agency.

(1993, cc. 730, 742, § 63.1-198.03; 2002, c. 747.)

**§ 63.2-1729. Confidentiality of complainant's identity.**

Whenever the Department conducts inspections and investigations in response to complaints received from the public, the identity of the complainant and the identity of any resident, participant or child who is the subject of the complaint, or identified therein, shall be confidential and shall not be open to inspection by members of the public. Identities of the complainant and resident, participant or child who is the subject of the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from disclosing to the assisted living facility, adult day care center or child welfare agency the nature of the complaint or the identity of the resident, participant or child who is the subject of the complaint. Nothing contained herein shall prevent the Department or its employees from making reports under Chapter 15 (§ 63.2-1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of this title. If the Department intends to rely, in whole or in part, on any statements made by the complainant, at any administrative hearing brought against the assisted living facility, adult day care center or child welfare agency, the Department shall disclose the identity of the complainant to the assisted living facility, adult day care center or child welfare agency a reasonable time in advance of such hearing.

(1994, c. 941, § 63.1-177.2; 2002, c. 747.)

**§ 63.2-1730. Retaliation or discrimination against complainants.**

No assisted living facility, adult day care center or child welfare agency may retaliate or discriminate in any manner against any person who (i) in good faith complains or provides information to, or otherwise cooperates with, the Department or any other agency of government or any person or entity operating under contract with an agency of government, having responsibility for protecting the rights of residents of assisted living facilities, participants in adult day care centers or children in child welfare agencies, (ii) attempts to assert any right protected by state or federal law, or (iii) assists any person in asserting such right.

(1994, c. 941, § 63.1-177.1; 2002, c. 747.)

**§ 63.2-1731. Retaliation against reports of child or adult abuse or neglect.**

No assisted living facility, adult day care center or child welfare agency may retaliate in any manner against any person who in good faith reports adult or child abuse or neglect pursuant to Chapter 15 (§ 63.2-1500 et seq.) of this title or Article 2 (§ 63.2-1603 et seq.) of Chapter 16 of this title.

(1996, c. 487, § 63.1-198.03:1; 2002, c. 747.)

**§ 63.2-1809. Regulated child day programs to require proof of child identity and age; report to law-enforcement agencies.**

A. Upon enrollment of a child in a regulated child day program, such child day program shall require information from the person enrolling the child regarding previous child day care and schools attended by the child. The regulated child day program shall also require that the person enrolling the child present the regulated child day program with the proof of the child's identity and age. **The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means. (Bold portion added by General Assembly in 2004).**

B. For purposes of this section:

"Proof of identity" means a certified copy of a birth certificate or other reliable proof of the child's identity and age.

"Regulated child day program" is one in which a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period that is licensed pursuant to § 63.2-1701, voluntarily registered pursuant to § 63.2-1704, certified as a preschool or nursery school program pursuant to § 63-2-21717, exempted from licensure as a child day center operated by a religious institution pursuant to § 63.2-1716, or approved as a family day home by a licensed family day system.

C. If the parent, guardian, or other person enrolling the child in a regulated child day program for longer than two consecutive days or other pattern of regular attendance does not provide the information required by subsection A within seven business days of initial attendance, such child day program shall immediately notify the local law-enforcement agency in its jurisdiction of such failure to provide the requested information.

D. Upon receiving notification of such failure to provide the information required by subsection A, the law-enforcement agency shall, if available information warrants, immediately submit an inquiry to the Missing Children Information Clearinghouse and, with the assistance of the local department, if available information warrants, conduct the appropriate investigation to determine whether the child is missing.

E. The Board shall adopt regulations to implement the provisions of this act.

(1998, c. 860, § 63.1-196.002; 2002, c. 747, bold sections added in 2004.)

## COMMONWEALTH OF VIRGINIA SCHOOL ENTRANCE HEALTH FORM

Original School Entrance Health Forms are distributed by the Department of Education. They are available in packs of 50 and may be obtained by contacting:

Howard Ruffner  
Virginia Department of Education  
P.O. Box 2120  
James Monroe Building, DOE Warehouse-Lower Level  
Richmond, Virginia 23218

Phone: (804) 786-8671  
Fax: (804)786-0396

Also you can view and print the form from the Department of Health's website  
[www.vdh.state.va.us/imm](http://www.vdh.state.va.us/imm) Click on School Requirements and click on School Entrance Health Form.

## COMMONWEALTH OF VIRGINIA CERTIFICATE OF RELIGIOUS EXEMPTION

Name \_\_\_\_\_ Birth Date \_\_\_\_\_

Student I.D. Number \_\_\_\_\_

The administration of immunizing agents conflicts with the above named student's/my religious tenets or practices. I understand, that in the occurrence of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in my/my child's school, the State Health Commissioner may order my/my child's exclusion from school, for my/my child's own protection, until the danger has passed.

Signature of parent/guardian/student \_\_\_\_\_ Date \_\_\_\_\_

I hereby affirm that this affidavit was signed in my presence on

This \_\_\_\_\_ Day of \_\_\_\_\_

Notary Public Seal

Form CRE-1; Rev. 00/92

Also you can view and print the form from the Department of Health's website  
[www.vdh.state.va.us/imm](http://www.vdh.state.va.us/imm) Click on School Requirements and click on Religious Exemption Form.

## **IMMUNIZATION INFORMATION**

Included is:

- Copy of the Recommended Childhood Immunization Schedule for the United States July-December 2004. This schedule indicates the recommended ages for routine administration of currently licensed childhood vaccines, as of April 1, 2004. A new schedule will be available from the Centers for Disease Control and Prevention after December 2004 at:  
<http://www.cdc.gov/nip/recs/child-schedule.htm#julydec>  
Please access the website or contact your local health department for an updated Recommended Childhood Immunization Schedules.
- Summary of Rules for Childhood Immunization as compiled by the Immunization Action Coalition. Updated information is available at [www.immunize.org](http://www.immunize.org) or may be requested by calling (651) 647-9131.
- § 32.1-46 of the Code -Immunization of children against certain diseases; authority to share immunization records.

The Virginia Department of Health has information on a wide range of topics on their website [www.vdh.state.va.us](http://www.vdh.state.va.us) or [www.vdh.state.va.us/imm/index](http://www.vdh.state.va.us/imm/index). for information on immunizations.

Lastly, you may contact your local health department for information and assistance.

## **Recommended Childhood and Adolescent Immunization Schedule - United States, 2003**

*Available on website or print version only.*

**Summary of Rules for Childhood Immunization**

**Available on website or print version only**





**§ 32.1-46 of the *Code of Virginia* - Immunization of children against certain diseases; authority to share immunization records.**

A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and poliomyelitis before such child attains the age of one year, against *Haemophilus influenzae* type b before he attains the age of thirty months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children born on or after January 1, 1994, shall be required to receive immunization against hepatitis B before their first birthday. All children shall also be required to receive a second dose of measles (rubeola) vaccine in accordance with the regulations of the Board. The Board's regulations shall require that all children receive a second dose of measles (rubeola) vaccine prior to first entering kindergarten or first grade and that all children who have not yet received a second dose of measles (rubeola) vaccine receive such second dose prior to entering the sixth grade. All children born on or after January 1, 1997, shall be required to receive immunization against varicella zoster (chicken pox), not earlier than the age of twelve months. Children who have evidence of immunity as demonstrated by laboratory confirmation of immunity or a reliable medical history of disease are exempt from such requirement. After July 1, 2001, all children who have not yet received immunization against hepatitis B shall receive such immunization prior to entering sixth grade.

The parent, guardian or person standing in loco parentis may have such child immunized by a physician or registered nurse or may present the child to the appropriate local health department, which shall administer the required vaccines without charge.

B. A physician, registered nurse or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate which shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, regulations of the Board

D. The provisions of this section shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board, or
2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia which states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.

E. For the purpose of protecting the public health by ensuring that each child receives age-appropriate immunizations, any physician, licensed institutional health care provider, local or district health department, and the Department of Health may share immunization and child locator information, including, but not limited to, the month, day, and year of each administered immunization; the child's name, address, telephone number, birth date, and social security number and the parents' names. The immunization information; the child's name, address, telephone number, birth date, and social security number, and the parents' names shall be confidential and shall only be shared for the purposes set out in this subsection.

(Code 1950, § 32-57.1; 1968, c. 592; 1972, c. 558; 1979, c. 711; 1980, c. 410; 1989, c. 382; 1991, c. 133; 1992, cc. 127, 166; 1994, c. 62; 1995, cc. 729, 742; 1996, cc. 67, 533; 1999, cc. 632, 676, 738; 2000, c. 476.)

**INFORMATION FROM HANDBOOK FOR PUBLIC PLAYGROUND SAFETY U.S.  
CONSUMER PRODUCT SAFETY COMMISSION**

Table 1 CRITICAL HEIGHTS (IN FEET) OF TESTED MATERIALS

Material	Uncompressed Depth			Compressed Depth
	6 inch	9 inch	12 inch	9 inch
Wood Chips*	7	10	11	10
Double Shredded Bark Mulch	6	10	11	7
Engineered Wood Fibers**	6	7	> 12	6
Fine Sand	5	5	9	5
Coarse Sand	5	5	6	4
Fine Gravel	6	7	10	6
Medium Gravel	5	5	6	5
Shredded Tires***	10-12	N/A	N/A	N/A

\* This product was referred to as Wood Mulch in previous versions of this handbook. The term Wood Chips more accurately describes the product.

\*\* This product was referred to as Uniform Wood Chips in previous versions of this handbook. In the playground industry, the product is more commonly known as Engineered Wood Fibers.

\*\*\* This data is from tests conducted by independent testing laboratories on a 6 inch depth of uncompressed shredded tire samples produced by four manufacturers. The tests reported critical heights which varied from 10 feet to greater than 12 feet. It is recommended that persons seeking to install shredded tires as a protective surface request test data from the supplier showing the critical height of the material when it was tested in accordance with ASTM F1292.

NOTES: Critical Height for a surfacing material is defined as the maximum height from which the instrumented metal head-form, upon impact, yields both a peak deceleration of no more than 200 G's and a HIC of no more than 1,000 when tested in accordance with the procedure described in ASTM F1292. Therefore, the Critical Height of a surfacing material can be considered as an approximation of the fall height below which a life-threatening head injury would not be expected to occur. The surfacing material used under and around a piece of playground equipment should have a Critical Height value of at least the height of the highest designated play surface on the equipment. This height is the fall height for the equipment.

The Handbook for Public Playground Safety is available from the U.S. Consumer Product Safety Commission at <http://www.cpsc.gov>

## **LICENSING INFORMATION LINE CHILD DAY CENTERS / FAMILY DAY HOMES**

### **Home Office**

Virginia Department of Social Services  
Division of Licensing Programs  
7 North Eighth Street  
Richmond, Virginia 23219

Tel: (804) 726-7154 Fax: (804) 726-7132

### **Field Licensing Offices**

(For information on how to become a licensed family day home provider, licensed child day center, or religious exempt program, contact the office for your area.)

#### **Central Region**

Wythe Building, Suite 130  
1604 Santa Rosa Road  
Richmond, VA 23229-5008

Tel: (804) 662-9743 Fax: (804) 662-7023

Counties: Amelia, Brunswick, Buckingham, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Fluvanna, Goochland, Halifax, Hanover, Henrico, King and Queen, King William, Lancaster, Louisa, Lunenburg, Mecklenburg, New Kent, Northumberland, Nottaway, Powhatan, Prince Edward, Prince George, Richmond, Westmoreland.

Cities: Colonial Heights, Hopewell, Petersburg, Richmond

#### **Eastern Region**

Pembroke Office Park  
Pembroke IV Office Building, Suite 300  
Virginia Beach, VA 23462-5496

Tel: (757) 491-3990 Fax: (757) 552-1832

Counties: Accomack, Greensville, Northampton, Southampton

Cities: Chesapeake, Emporia, Franklin, Norfolk, Portsmouth, Suffolk, Virginia Beach

#### **Peninsula Area**

729 Thimble Shoals Blvd.  
Oyster Point Park, Building 6, Suite 6-B  
Newport News, VA 23606

Tel: (757) 594-7594 Fax: (757) 594-7593

Counties: Gloucester, Isle of Wight, James City, Mathews, Middlesex, Surry, Sussex, York

Cities: Hampton, Newport News, Poquoson, Williamsburg

#### **Northern Region**

170 West Shirley Avenue, Suite 200  
Warrenton, Virginia 20186  
Tel: (540) 347-6345 Fax: (540) 347-6304

Counties: Caroline, Culpeper, Fauquier, King George, Prince William, Rappahannock, Spotsylvania, Stafford  
Cities: Fredericksburg, Manassas, Manassas Park.

### **Fairfax Area**

11320 Random Hills Road, Suite 200  
Fairfax, VA 22030

Tel: (703) 934-1505 Fax: (703) 934-1558

Counties: Arlington, Loudoun, Fairfax  
Cities: Alexandria, Fairfax, Falls Church

### **Verona Area**

Post Office Box 350  
68 Dick Huff Lane  
Verona, VA 24482-0350

Tel: (540) 332-2330 Fax: (540) 248-9334

Counties: Albemarle, Augusta, Clarke, Frederick, Greene, Highland, Madison, Orange, Page, Rockingham, Shenandoah, Warren  
Cities: Charlottesville, Harrisonburg, Staunton, Waynesboro, Winchester

### **Piedmont Region**

Commonwealth of Virginia Bldg.  
210 Church Avenue, SW, Suite 100  
Roanoke, VA 24011-1779

Tel: (540) 857-7920 Fax: (540) 857-7364

Counties: Alleghany, Amherst, Appomattox, Bath, Bedford, Botetourt, Campbell, Craig, Franklin, Henry, Nelson, Patrick, Pittsylvania, Roanoke, Rockbridge.  
Cities: Bedford, Buena Vista, Covington, Danville, Lexington, Lynchburg, Martinsville, Roanoke, Salem

### **Abingdon Field Office**

190 Patton Street  
Abingdon, VA 24210  
Tel: (540) 676-5490 Fax: (540) 676-5621

Counties: Bland, Buchanan, Carroll, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe  
Cities: Bristol, Galax, Norton, Radford